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# Senate

The Senate met at 9:30 a.m., and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Holy God, sustainer of humanity, if it were not for Your love, our burdens would be too heavy and the journey would seem too difficult. But because of Your mercies, we can mount up on wings like eagles, run and not become weary, and walk and not faint.

Draw near to our Senators today. Keep them from confusion and perplexity and the fatigue of fruitless quests. Breathe upon their thinking with Your truth and illuminate their understanding with Your light. May the pressures of the world not mold them, but may they receive Your strength so that they can shape our Nation and world according to Your purposes. Lord, maintain in them the fidelity of those to whom much has been given and from whom much will be required. May this be for them a productive day because they have placed their trust in Your strong and guiding hand.

We pray in Your sacred Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, September 16, 2009.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period for the transaction of morning business until 11 a.m. Morning business will need to cease at 11 a.m. because we have Senator COBURN coming to give a statement at that time, preparatory to a vote that will occur after he completes his remarks. Senators will be permitted during the time until 11 o'clock to speak for up to 10 minutes each. The Republicans will control the first half of that time, the majority will control the next half, and the remaining time will be equally divided and controlled between the two leaders or their designees.

Following morning business, the Senate will resume consideration of H.R. 3288, the Transportation appropriations bill. There will be 30 minutes for Senator COBURN and 10 minutes for Senator MURRAY to debate the pending Coburn amendments. Upon the use or yielding back of that time, the Senate will proceed to a series of up to five rollcall votes. Therefore, Senators should expect votes beginning around 11:30 a.m. Senator COBURN may not use all of his time. If that is the case, when he completes his remarks, Senator MURRAY or someone she chooses will speak and then we will start the votes.

Last night, I filed cloture on the committee amendment and the underlying bill. I am confident and hopeful that is not going to be necessary, as I am told we should be able to complete action on this bill today. As a result, there will be a 1 p.m. filing deadline for first-degree amendments to this Transportation bill. We hope we can move immediately to the Interior appropriations bill. We should be able to wrap that up fairly quickly.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

## HEALTH CARE

Mr. MCCONNELL. Mr. President, the debate over health care continues to be a top concern for most Americans, but it is important to realize that this debate is not taking place in a vacuum. It is taking place in the context of a nation that is increasingly concerned about the size and the scope of government.

Over the past year, Americans have seen the government take over automakers and insurance companies. They have seen government spend hundreds of billions of dollars to bail out banks and other financial institutions. They have seen government run up unprecedented debt. And now they are seeing the government trying to take over health care.

If the White House wants an explanation for all the unrest it is witnessing across the country, all the worry and concerns Americans have about their health care plans, this is a crucial piece. Democrats in Washington may see all these government

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

programs and interventions as separate, individual events. But to most Americans who are weathering a recession, it seems as if every time they pick up a newspaper or turn on the television, Democrats in Washington are pushing another trillion-dollar bill, calling for more spending, more taxes, and more debt. That is why people are becoming more vocal, and that is why they have been delivering a consistent message for weeks: no more government takeovers, no more spending money we do not have, no more tax increases, and no more debt. Americans are concerned about government running their lives and ruining their livelihoods, and they do not get the sense that either the administration or Democrats on Capitol Hill are listening.

Nowhere is this disconnect between the people and the politicians in Washington more apparent than in the debate over health care. Americans do not think a bigger role for government in health care would improve the system. Yet despite this, every single proposal we have seen would lead to a vast expansion of the government's role in the health care system.

It is not that the Democrats in Congress do not sense the public's unease about a new government plan for health care. I think they do. It is the primary reason some of them are backing away from proposals that include it. What some Americans do not realize, however, is that even without a government plan, the health care plans Democrats are proposing would still vastly expand the government's role in our health care. That is what I would like to discuss in a little more detail this morning.

Let me list just a few examples of how government's role in health care would expand even without a government-run plan.

Even without a government plan, the proposals we have seen would force employers to pay a tax if they cannot afford insurance for their employees. Employers have warned that this provision would kill jobs. At a time when the Nation's unemployment rate stands at a 25-year high of 9.7 percent, we should help businesses create jobs not kill them.

Even without a government plan, these proposals would require all Americans to choose only from health insurance plans with standards set by the government and would let government bureaucrats dictate what benefits are available to families. On this point, Americans have been equally clear. People want more choice and competition in the health care market so they can pick a plan that will work for their family, not one dictated by politicians in Washington. Yet even without a government plan, that is what they would get under the proposals we have seen. Anyone who saw any of the townhall meetings last month knows this idea is about as popular as chicken pox.

Even without a government plan, these health care proposals would require States to expand their Medicaid Programs, something the Senator from Tennessee, who is here on the floor, has spoken about frequently. Governors from both political parties have expressed serious concerns about the effect this particular proposal would have on their State budgets. They think these kinds of decisions should be left up to them, the States, not the Federal Government, and, frankly, so do most Americans.

Even without a government plan, these health care proposals would impose new taxes on small businesses and on individuals. Under the House bill, for example, taxes on some small businesses could rise as high as roughly 45 percent, a rate that is approximately 30 percent higher than the rate for big corporations. Under the same House bill, the average combined Federal and State top tax rate for some individuals would be about 52 percent—more than half of their paychecks.

Finally, the President has said his plan will not require any Americans to give up the health insurance they have and like. But what about the 11 million seniors who are currently enrolled in Medicare Advantage? Nearly 90 percent of them say they are satisfied with it. This program has given seniors more options and more choices when it comes to their health care. Yet under the administration's plan the government would make massive cuts to Medicare Advantage, forcing some seniors off this plan that so many of them have and like. When it comes to Medicare Advantage, Democratic rhetoric just does not square with reality.

Let me sum it up. While getting rid of the government plan would be a good start, the Democratic bills we have seen would still grant the government far too much control over the health care system.

Over the past few months, Americans have been saying they have had enough of spending, enough of debt, and enough of government expansion. How are the Democrats in Washington responding? By trying to rush through another trillion-dollar bill Americans do not even want and cannot afford.

The American people do want health care reform—not with more government but with less. They do not want a new government-run system; they want us to repair the system we have.

On all of these points, the American people are sending a clear and persistent message. It is time we in Congress started to listen.

Mr. President, I yield the floor.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period for the transaction of morning business until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the Republicans controlling the first 30 minutes, the majority controlling the next 30 minutes, and the remaining time equally divided and controlled between the two leaders or their designees.

The Senator from Tennessee is recognized.

## HEALTH CARE REFORM

Mr. ALEXANDER. Mr. President, I congratulate the Republican leader, the Senator from Kentucky, on his remarks. He made it very clear that we on the Republican side of the aisle want health care reform, but our definition of that is a little different from that on the other side of the aisle. We want health care reform that reduces costs—costs to the American people when they buy health insurance and the costs of the government of the American people. We do not want more debt and another Washington takeover, which we are seeing so much of these days.

President Obama said in his address to us that he ''will not sign a plan that adds one dime to our deficits—either now or in the future. Period.'' That is good.

As David Brooks wrote in the New York Times this past Friday:

> This sound bite [of the President] kills the House health care bill.

It kills the House health care bill, because it would add $220 billion to the deficit over the first 10 years of its operation and another $1 trillion over the next 10 years after that.

The President's sound bite about the deficit would effectively knock out the bill passed by the Senate HELP Committee as well. According to a recent letter from the Congressional Budget Office to the ranking member of the Senate HELP Committee, Senator ENZI of Wyoming:

> The 10-year cost of the coverage expansion [of that bill] to the Federal Government, including such a change in Medicaid eligibility, would probably exceed $1 trillion.

So that is off the table.

There appears to be growing bipartisan concern about a health care bill that might add to the debt. Senator WARNER of Virginia said on Monday:

> My feeling is, [health care reform] can't just be paid for in a 10-year window. It has to be paid for in the out years as well.

That is Washington-speak for over the long term. He says:

> This is so much bigger than health care. It goes to the deficit. It goes right to the heart of our competitiveness.

That is Senator WARNER of Virginia. I couldn't agree more. All of the health care reform bills produced so far by the Democratic Congress—either in the Senate or in the House—flunk the first test, which is reducing cost—cost to the American people and cost to the American government.

In July, the Congressional Budget Office Director, Douglas Elmendorf, said

that the House bill and the Senate HELP bill did not propose ''the fundamental changes that would be necessary to reduce the trajectory of Federal health spending by a significant amount.''

Additionally, the Congressional Budget Office has indicated that the House bill would result in a ''net increase in the Federal budget deficit of $239 billion'' over 10 years. This is likely a low-ball estimate, because it assumes that Congress will increase taxes by $583 billion over the next 10 years.

So if we are going to implement health care reform without increasing our debt, how are we going to pay for it? Who is going to pay for it is the more precise question. Here are some of the answers that have been proposed so far by the Democratic side of the aisle.

No. 1, grandma's Medicare is going to pay for it. The bills—and the President's own plan, which we have yet to see the details of—propose ''Medicare savings.'' Nice words for Medicare cuts. If there is $500 billion in savings to be found in Medicare, we should use it to keep Medicare solvent, because the trustees of Medicare say that we are now spending at such a rapid rate that we will run out of money for Medicare by 2017. We should not use Medicare cuts to pay for a new government program. We should use any Medicare savings to make Medicare stronger.

No. 2, the way to pay for these bills we have been seeing in the House and the Senate is to shift the costs to the States. This is done by expanding Medicaid, which is the largest government-run program we have today. Almost 60 million low-income Americans have their health care from Medicaid, which the Federal Government pays about 60 percent of and the States 40 percent. The plans we have been hearing about have the Federal Government expanding Medicaid coverage—this is the State plan I was talking about—from 60 million to 80 million or 90 million people and, after a few years, asking the States to pick up their additional share of the cost of that expansion.

According to the National Governors Association, expanding Medicaid to 133 percent of the Federal poverty level would cost the States an additional $31 billion per year. Although details are still lacking—and we may find out more today about the proposals from the Senate Finance Committee—the Democratic Governor of Tennessee, Governor Bredesen, said on Friday that he is concerned about the plan being proposed by Senator BAUCUS and that his guess was it might cost our State as much as $600 million to $700 million per year.

In Washington that doesn't sound like a lot of money, but to Tennessee that is a lot of money. We had a big fight a few years ago over whether to have a new State income tax. We don't now have one, and our former Governor didn't succeed on that. People got very upset about that. That would only have raised $400 million. But this is an increase of $600 million or $700 million that would, after a few years, be shifted to the States.

That is not all. Since States only reimburse doctors and hospitals for about 60 percent of their cost of serving the 60 million patients on Medicaid, these expansion proposals of Medicaid usually also require States to increase reimbursements to doctors and hospitals. Increasing reimbursements to doctors and hospitals would basically double the increased cost to States. So you can see why earlier in the debate many of the Governors—including many of the Democratic Governors of this country—objected to this proposal. Governor Bredesen called those proposals ''the mother of all unfunded mandates.'' We know where unfunded mandates lead in our State, and that is higher State taxes.

No. 3, in addition to cutting Medicare and increasing State taxes by expanding Medicaid, the bills we have seen ask small businesses to help pay for the bills through employer mandates and fines. Under the Senate HELP Committee bill, for example, firms with more than 25 workers would have to pay the new tax, with penalties equal to $750 per year per full-time employee and $375 for part-time employees. The Congressional Budget Office estimated that this would raise $52 billion over 10 years. The House bill would impose over $200 billion in fines on businesses who cannot afford to finance their workers' health coverage.

There is another consequence to that. We have often heard the President say: Well, if you like your health care plan, you can keep it. But, what he doesn't go on to say is that if we create this government plan and if we require employers to pay $750 per full-time employee and $375 for a part-time employee, many employers are going to look at that and decide it is much cheaper to pay the $750 or the $375 for an employee. So they will just pay the government a fine and let the government plan offer health care to their employees. It is estimated by most groups that have looked at the plans we have seen that the combination of a government plan and an employer tax will result in millions of Americans losing their employer-provided health insurance.

Then there is one other way of paying for the bill: to tax people who have health care insurance. That is why the Democratic Senator from West Virginia, Mr. ROCKEFELLER, is quoted as saying today that the bill coming out of the Finance Committee—which we haven't seen yet—has a big tax on coal miners, on the middle class. That is according to Senator ROCKEFELLER.

So we are barking up the wrong tree. This debate about health care should be about reducing costs. That should be the first goal of what we mean when we say the words ''health care reform''—reducing the cost to individuals and families and small businesses that are buying health care plans and paying for insurance—that is 250 million individuals in the country today—reducing the cost to the government in higher health care spending.

That is why Republicans have suggested we should start over. A lot of good work has been done. A great many of us understand much better this complex subject we are dealing with. There is no embarrassment in saying we have gotten to this point; we are headed in the wrong direction. The Mayo Clinic, the Democratic Governors, the Congressional Budget Office, millions of Americans in town meetings are saying: You are heading in the wrong direction. You say: Ok, fine. We hear you. Let's start over.

How should we start over? Instead of passing 1,000-page bills that add to the debt and increase costs, we should work step by step to re-earn the trust of the American people. The era of 1,000-page bills is over. Smaller steps in the right direction are still a very good way to get where we want to go. There are some steps we can take, some things we can do today to move step by step in the right direction and to lower costs.

No. 1, allowing small businesses to pool and reduce health care costs by putting their resources together would increase accessibility for small business owners, unions, associations and their workers, members and families to health care. This legislation has already been considered in the Senate and in the House. It is nearly ready to pass. Estimates are that passing a small business health insurance plan would permit small businesses to offer coverage to one million more Americans.

No. 2, reform medical malpractice laws so runaway junk lawsuits don't continue to drive up the cost of health care. The President mentioned that the other night in his remarks. I congratulate him for that. But, we should do even more than he suggested. We have 95 counties in Tennessee, and in 60 of them we don't have an OB/GYN doctor because they will not practice there anymore. Their medical malpractice insurances premiums are too high—over $100,000. So pregnant women have to drive a long way—to Memphis or to Nashville or to other large cities—for their prenatal health care or to have their babies. That is a way to lower costs—reduce junk lawsuits.

There is some disagreement about how much that would save, but there is no disagreement that junk lawsuits contribute to higher medical costs.

No. 3, allow individual Americans the ability to purchase health insurance across State lines. As a former Governor, I jealously protect States rights. I like States to have responsibilities. But, I think, in terms of health care, we should allow more purchasing of policies across State lines, as people do with their car insurance today. That is a third way to take a step toward

health care reform that actually begins to lower costs.

No. 4, we don't have to pass a new bill in order to insure more Americans. About 20 percent of the uninsured Americans—maybe 10 million or 11 million—are already eligible for existing programs, such as Medicaid and the Children's Health Insurance Program. They are not enrolled. We should sign them up.

No. 5, we could create health insurance exchanges. I hear that from the Democratic side; I hear it from the Republican side. These are marketplaces in each State so individuals and businesses can shop around and find a cheaper and a better source of health insurance.

No. 6, all of us have talked about encouraging health information technology, which the Government Accountability Office has said ''can improve the efficiency and quality of medical care and result in costs savings.''

I have suggested six areas we could work on together to reduce cost. We have forgotten, in this health care debate, what we set out to do. The first goal of health care reform is to reduce cost—the cost of health care to Americans, to American businesses, and the cost to Americans of their government, which is spiraling out of control in debt because of the cost of health care. We are spending 17 percent of everything we produce in this country—and we produce 25 percent of all the wealth in the world year in and year out—on health care; twice as much on health care as a percentage as most industrialized countries. If we don't reduce costs, we will bankrupt the government and make health care unaffordable for most Americans.

The President of the United States was right to say he will not sign a bill that increases the deficit. Since that eliminates all the legislation the Democratic Congress has produced so far, I hope we will now take Republican advice and start over and get it right. A good way to begin would be for the President to send us a health care reform bill that not only doesn't add to the debt but that begins step by step to reduce costs to the American people and to the American Government. And by taking those steps, we can re-earn the trust of the American people.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I ask that the time I use be allocated on the Democratic time and that the Republican time be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## HEALTH CARE REFORM

Mr. NELSON of Florida. Mr. President, I am here to talk about health care and health care reform today. A lot is happening today. The chairman of our Finance Committee, Senator BAUCUS, is, as we speak, making his chairman's mark become available publicly. Then later on today, around noon, he is going to have a public statement about it.

Clearly this is one of the most pressing issues. Throughout this long hot summer we have had, people across the country have debated this issue, discussed it. It has helped lay the groundwork for where we are right now on this historic issue. I personally believe the President of the United States is committed that we are going to pass health care reform legislation.

I believe the President of the United States back in the early 1990s was equally committed, but it did not happen. I think the big difference between then, in 1993, and now is that in fact it is going to happen. I want you to know this Senator is optimistic that when it gets around to 60 votes in this Chamber in order to shut off debate, I think we will get those 60 votes, and I think we will get them in a bipartisan fashion.

Of course, right now all the commentary you hear is what is this problem and what is happening on this fight and who is not on board, and so forth. That is all natural. That is natural kind of talk. But when the moment of truth comes in casting yea or nay on this floor, I think people are seeing, day by day, examples of why we have to have health care reform.

This happened just this past week in my own State of Florida. A woman undergoing cancer treatments has a reasonable degree of success by virtue of the enormous advances in cancer treatment. As the research doctors will tell you, people can live with cancer now. This lady was told by her insurance company they were disapproving the payments for the continuation of her treatments for cancer. That is the kind of stuff we cannot tolerate. It is another example of how insurance is not available even if an American citizen can afford it.

I will give another example. One of the prominent citizens in a big city in Florida told me, for her corporation the health insurance is being jacked up 47 percent. This is for a major telecommunications company that has thousands of lives they can spread the health risk over, and it is being jacked up 47 percent. She said they negotiated that down from 55 percent. The question of affordability is there as well as the availability. In other words, the American people need stability when it comes to them knowing that health insurance and health care are going to be there for them. That is what we do not have and that is why this Senator is optimistic that when the moment of truth comes that we have to indicate to the President of the Senate if our vote is yea or nay, we are going to have 60 votes to cut off debate to get to the bill to start the amendatory process.

We are going to start that amendatory process in the Finance Committee of the Senate next week. The chairman is going to come out with a mark—the chairman's suggestion, called the chairman's mark—today. There is a bunch of stuff in there this Senator doesn't agree with. But we are going to have an opportunity to change it.

Every one of us has received a lot of commentary about this from our constituents. In our office, just in the last few weeks, just on this issue we have received 56,000 calls or e-mails or letters. I happen to think this is good. It is bringing out passions. Unfortunately, it is bringing out, sometimes, hot passions.

During August I was inside giving a speech to the greater Miami Chamber of Commerce while outside on the road were demonstrators with signs. Along came a pickup truck, a fellow got out, got into an argument, and he hauled off and knocked out a 65-year-old demonstrator. Of course, the TV cameras arrive when the poor 65-year-old is just coming to consciousness.

There is no place for that, but that indicates some of the hot passions this has brought out. Remember what President Lincoln said:

> With public sentiment, nothing can fail. Without it, nothing can succeed.

He was specifically talking about the way we do government and the way we make law in this country.

Recall also what President Kennedy said about 50 years ago. He said specifically about health care:

> The consent of the citizens of this country is essential if this or any other piece of progressive legislation is going to be passed.

He was specifically talking about health care. So every one of us Senators can say, from the personal meetings, the calls, the letters, the e-mails—we can tell you there are a lot of folks out there who do not have access to affordable health care or in many cases to quality health care. We can tell you the stories we have heard about people being systematically excluded by some of the Nation's major managed care insurance companies and/or just insurance companies. Unfortunately, those are not rare cases. That is why we are here, to do something about it.

Regardless of where you stand on the specifics of the issue, I think we can agree the current system, if continued, would be unfair, too costly, and as a result it needs to be fixed. It affects every one of us. It is also a truth that sooner or later every American, 9 out of 10 times, 9 out of 10 of us are going to end up in the hospital at some point.

What do we do? I think the President laid down a good marker. His speech before the joint session was excellent. It gave some clear answers about his views on reform. It is true he has been more hands-off and is letting it be done by the Senate and the House. But, interestingly, when he got more specific,

as he did in his speech to the joint session, he described or tracked pretty close to what is coming out in Senator BAUCUS's mark that the Finance Committee is going to take up next week.

This legislation is going to let folks who are happy with their insurance keep it, including our senior citizens who are on Medicare and our veterans who have their health care. But it is also going to create a marketplace, a marketplace called the health insurance exchange, for those who do not have insurance. And in the case of the State of Florida, I will give you a percentage. That is 21 percent of our people who do not have insurance in Florida.

That number is a little less nationwide, but if you take Florida as a bellwether, it is 21 percent who do not have insurance. This legislation is going to create an exchange, a health insurance exchange, for those who do not have it, cannot get it, or those who are unhappy with their coverage. They can go get it at an affordable price.

It is a private sector solution of insurance companies competing with an insurance co-op, which is owned by the policyholders, not a government-insurance company, where in that competition of the free marketplace, they can offer insurance at lower prices. And for those poor souls who all they can get is not a group policy because they do not get insurance through an employer, the only way they can get it is to buy an individual policy, and, therefore, because it is an individual policy their rates are through the Moon—they are going to have an opportunity also to go into this health insurance exchange where they can get good coverage at a lower price. So what the legislation is going to do, in the creation of this health insurance exchange, it is going to hold the insurance companies' feet to the fire to require them to cover everyone and prevent them from dropping people when they get sick. That is called ''guaranteed coverage'' without any exemption from preexisting medical conditions.

That is why a lot of people cannot get insurance. They have had a heart attack before or they had some malady or you have heard the horror cases that they had a skin rash previously 3 years ago, and the insurance company will not cover them because they said that is a preexisting condition.

We are going to stop all of that with this legislation that I think will ultimately become law. It is going to contain several additional measures aimed at reducing other medical and prescription drug costs, and it is going to go right at the waste and the fraud in the system.

This is a starting point. This is not the end all to be all. This is the starting point. We are going to do the amendments probably for 2 weeks in the Finance Committee. Then it is going to come out here, and it is going to get amended here. Then it is going to go to a conference committee, and it is going to get amended more.

There are some concerns I want to share with the Senate and anybody who is listening through the lens of that TV camera. We have emphasized the importance of making sure that the insurance available on that health insurance exchange is affordable. We emphasized the importance of addressing the high health care costs of retirees who are not yet ready, because they are not eligible, for Medicare.

We have urged and expressed our concerns about how small business is treated under this bill. Then, when it comes to senior citizens, those who are on Medicare, who generally are very favorable about their Medicare coverage, it is certainly a concern of this Senator who has a substantial population in my State of Florida of senior citizens on Medicare that they not have something taken away from them they have come to expect and to rely on in Medicare.

That particularly is so with regard to a program called Medicare Advantage, which is a fancy term for a Medicare HMO, a health maintenance organization. The way the system was set up in a bill that passed 5 years ago, which this Senator did not vote for because it was severely flawed—nevertheless, it is the law and it has been the law for the last 5 years. It set up a system whereby Medicare HMOs, called Medicare Advantage, bid for senior citizens by offering them attractive premiums that are below what the standard Medicare fee-for-service is in a community. The law requires whatever that differential is between what the Medicare HMO has bid and what the fee for service is, that a quarter of that has to be given back to Medicare, but 75 percent of that differential is given to the senior citizen's Medicare beneficiary, through either lower premiums or no copays, or through extra benefits, such as hearing devices, or eye glasses or maybe even a membership in a fitness club.

Needless to say, the senior citizens who have this do not want it taken away from them. Although people will say these high subsidies to Medicare Advantage, to those insurance companies need to be adjusted, I think it would be intolerable to ask the senior citizens on Medicare who have it to give up substantial health benefits they are enjoying under Medicare.

For hundreds of thousands of seniors who did not conceive of Medicare Advantage but who have come to rely on it, this Senator is going to offer an amendment that will shield them from those benefit cuts on existing senior citizens on Medicare. I do not think we can punish senior citizens who signed up, and if changes need to be made for the future solvency of Medicare, then the senior citizens currently with Medicare Advantage should be grandfathered in. That is what my amendment is going to be. It is going to say that on the date of the bill, once it is signed into law, those who have that benefit should not have it taken away, and that a competitive arrangement for Medicare Advantage in the future would be done on a going-forward basis.

I have another reason I am offering that amendment, because Senator Claude Pepper was one of the people who nurtured me along as a young Congressman in the House of Representatives. A lot of young people today do not remember who Senator, then Congressman, Claude Pepper was. He had been a Senator back when Roosevelt was President. He came back into the Congress after a 12-year hiatus out of office as a new Congressman from South Florida. He became the champion of the seniors of America, first, chairman of the Aging Committee in the House of Representatives, and then as chairman of the Rules Committee of the House of Representatives.

What Claude Pepper said everybody listened to, because he spoke with great credibility and he spoke with great passion and eloquence. He spoke for a good cause, and that was standing up for the rights of senior citizens. He had been there at the outset. He had been a Senator when Social Security came into being in the midst of the Great Depression. Claude Pepper, who died in office at about age 87, on many private talks would say: BILL, I want you to look out for our seniors. Someone has to look out for them.

I have never forgotten those admonitions, those instructions that were done with such love and compassion. So I feel it is my duty to try to protect our seniors as we get into the midst of this debate.

There are other areas where we can certainly improve what is expected to come out today at noon. Another amendment would require the pharmaceutical companies to provide rebates to Medicare, as they have been doing for years, for decades, to Medicaid.

Medicaid has roughly 49 million people in this country. Medicare has roughly 44 million people in this country. We give big discounts because we are buying for 49 million Medicaid recipients. The drug companies give those discounts back in the form of a rebate to the governments, the Federal and State governments.

Why shouldn't they do that with regard to the 44 million Medicare recipients? If it is good enough for Medicaid, and it makes drugs a lot cheaper, why not do it for Medicare recipients? By the way, it would save Medicare a ton of money.

There are serious issues to be resolved. This Senator is optimistic, and I believe we are going to be able to achieve this goal of expanding affordable health care to nearly all Americans. We must do so without raising taxes on the middle class or upending their coverage. And we must do so without lowering the quality of health care for any American, including our senior citizens.

I am, by nature, an optimist. In the midst of everything that is wrong about this health care bill, I remain an optimist. The moment of truth is coming when we cast that vote yea or nay.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNET.) The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, how much time remains in morning business?

The PRESIDING OFFICER. In the first segment of the time, 4½ minutes remains.

Mr. NELSON of Florida. I ask unanimous consent to be recognized.

The PRESIDING OFFICER. The Senator is recognized.

## NASA FUNDING

Mr. NELSON of Florida. Mr. President, this afternoon I am chairing a hearing of our Science and Space Subcommittee of the Commerce Committee on the future of NASA. The National Aeronautics and Space Administration is at a crossroads. There is only one person who can lead America's space program, and that is the President. The direction our country's space program, both manned and unmanned, is going to take will be square in the lap of the President. I discussed this with him on several occasions when he was Senator and when he was a candidate. I have discussed it with his staff, I am sure from their standpoint, ad infinitum.

This afternoon, we have the Chairman of the blue ribbon panel created by the President to look at the future of human spaceflight for America and to report to the President. The Chairman, former aerospace CEO Norman Augustine, is testifying in front of our committee.

It is the contention of this Senator's, who loves the space program, both manned and unmanned, and wants to see it continue as a part of our American character as explorers and adventurers, that if we ever give it up, we become a second-rate power because we give up a part of ourselves. We have always been pioneers, adventurers, and explorers. We used to go westward when this country was discovered and built. Now we go upward. Clearly, it is no secret where this Senator comes from.

What I would like to get Dr. Augustine to bring forth, out of this extensive deliberation and extensive and detailed and very good report he has come forth with, is just how important it is that you can't do a human space program on the cheap and that NASA has been underfunded for the last decade. We see the results, that we are going to be shutting down the space shuttle in the near future when we have completed construction of the international space station. And because NASA has been underfunded, we don't have the next rocket ready. We have to go and hire rides to our own space station that we have bought and paid for and built. We have to buy rides from the Russians to get there. That is inexcusable, but that is what happened. It happened over the last decade. NASA was underfunded.

The Augustine Commission has come out in early reports—and I want to hear this directly from him, I want the committee to hear this directly from Dr. Augustine—indicating that if we are going to fund a human spaceflight program that gets us out of low Earth orbit where our space station is and allows us to explore other worlds, be it the Moon, be it Mars, be it asteroids, whatever it is, NASA needs an additional $3 billion a year for the next decade. I want to hear Dr. Augustine say that, in fact, we do need to get out of low Earth orbit, because that is what we need to do as discoverers, as adventurers.

Finally, I want to hear him say that because NASA has been underfunded and mismanaged, in fact, we have a huge personnel problem in that suddenly there is not going to be work for that personnel. Those people who are space pioneers, who have lived it and breathed it and dedicated their lives to it, need to be taken into consideration instead of summarily dismissed and laid off. That is what I am looking to.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. COBURN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I wish to spend a few minutes this morning on some amendments I have offered. I ask unanimous consent to withdraw amendment 2373.

The PRESIDING OFFICER. The Senate is in morning business and the measure is not pending at this time.

Mr. COBURN. Will the Chair advise when we will be out of morning business?

The PRESIDING OFFICER. At 11 o'clock.

## TRANSPORTATION APPROPRIATIONS

Mr. COBURN. Mr. President, I will spend some time discussing the amendments we have. There is some opposition to our amendment to allow the States to opt out of being required to fund transportation enhancements. This does not eliminate the enhancements. What it simply does is give the State of Colorado or the State of Oklahoma the opportunity to say, with roads in such disrepair and 138,000 bridges in disrepair, that we have the ability, if we so choose, to take all of the money, instead of 90 percent, and apply it to solve the problems we have.

So it will not force California to not do enhancements. It will not force any State to not do them. It will give them the privilege of electing whether they want to do those enhancements when, in fact, we have such a critical need in terms of roads, highways, and bridges.

So the goal of this—and it is important to know where the money comes from. The money is taxes that are collected from individuals in Colorado and Oklahoma and every other State that are then sent here and then sent back. In my State—I do not know about Colorado—we have never gotten more than 93 percent of what we have sent here. We used to average about 74 percent. But now, as to the money that does come back, 10 percent has to be spent on enhancements, whether that is sound barriers or walking paths or bicycle paths or numerous other enhancements, as under the SAFETEA-LU bill.

So what this amendment does, it does not force anybody to not, but it gives them the option to fix the problems in their State.

I would note that the National Transportation Safety Board notified us that last year 13,000 people died on our highways, not because they made a driving error, not because someone else made a driving error, not because they had a problem with their automobile or with their truck, they had the accident because the roads were substandard. Thirteen thousand people lost their lives.

So the question of priority, of whether my department of transportation in Oklahoma ought to have the ability to fix roads and bridges instead of building sound barriers ought to be left to us.

This amendment is for this year only. It does not eliminate, does not change the law. It just says: We are going to give you the option this year with this money, if your State has needs—and Oklahoma has significant needs; I know Colorado does because I am there a lot—that we do not necessarily spend it on sound barriers, that we can actually spend it on something that is going to save somebody's life. So it does not force anybody to not do enhancements but gives them the right to choose the priority of saving lives over enhancements, if they so desire.

The Senator from California made a statement yesterday about what this amendment would do. There is no force in this amendment other than to allow. It allows the States the freedom to do what is best for their citizens rather than saying 10 percent of the money they get back has to be spent on things that are not going to save lives, are not going to enhance safety, but, in fact, are going to enhance aesthetics.

So I think it is a commonsense amendment. There is no force; that if California wants to continue to spend 10 percent of their money on enhancements, they can. There will be nothing that will keep them from doing that. It will be what the State decides to do rather than what we decide to do.

Since it is money taken from those States, it would seem we would want to give the States the option to make the best priority choice for those dollars for their individual citizens.

I am very appreciative of Senator MURRAY's agreement to take two of our amendments that are based on transparency to the American public. One requires HUD to report to Congress on homes that are owned and the cost to taxpayers so the American people see what the Department of Housing and Urban Development is doing. The other is an amendment to make available to the public all the reports—and there are numerous reports required in this bill of the Transportation Department—to make those available to the public as well so it is in the light of transparency. I am very thankful for Senator MURRAY's agreement on those two amendments.

I have two other amendments I will talk about when Senator MURRAY gets to the floor. Otherwise, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3288, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3288) making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Coburn/McCain amendment No. 2371, to remove an unnecessary and burdensome mandate on the States, by allowing them to opt out of a provision that requires States to spend 10 percent of their surface transportation funds on enhancement projects such as roadkill reduction and highway beautification.

Coburn/McCain amendment No. 2370, to fully provide for the critical surface transportation needs of the United States by prohibiting funds from being used on lower-priority projects, such as roadkill reduction programs, transportation museums, scenic beautification projects, or bicycle paths, if the Highway Trust Fund does not contain amounts sufficient to cover unfunded highway authorizations.

Coburn/Mccain amendment No. 2372, to fully provide for the critical surface transportation needs of the United States by prohibiting funds from being used on lower-priority projects, such as transportation museums.

Coburn amendment No. 2374, to determine the total cost to taxpayers of Government ownership of residential homes.

Coburn Amendment No. 2377, to require public disclosure of certain reports.

Wicker modified amendment No. 2366, to permit Amtrak passengers to safely transport firearms and ammunition in their checked baggage.

Vitter amendment No. 2376, to affirm the continuing existence of the community service requirements under section 12(c) of the United States Housing Act of 1937.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, for the information of all Senators, we are now here on our fifth day of considering the transportation and housing appropriations bill. We do have a number of amendments that have been offered. The Senator from Oklahoma is here. He has the first 30 minutes under the previous order. I have the following 10 minutes. I would like all Senators to know that if all time is not used, we intend to yield back and we expect that these votes may occur as early as 11:30.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I join with my colleague, the Senator from Washington, in saying please let's get on with it. This will fill out a full week now. This will be Thursday through Wednesday we have been on the floor. We want to bring these amendments forward. I understand we may not need 40 minutes, and we certainly would like to get these votes started so we can wrap them up before we break for the scheduled lunches.

Again, if the Senators could be ready for a vote, we hope as early as 11:30, no later than 11:40, and we will have a series of votes. We look forward to dealing with these amendments and moving on to others.

I thank our colleagues for their attention and let's get on with it. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2370, AS MODIFIED

Mr. COBURN. Mr. President, I believe the desk has a modification to amendment No. 2370, and I ask unanimous consent for that modification.

The PRESIDING OFFICER. Is there objection to modifying the amendment?

Without objection, the amendment is so modified.

The amendment (No. 2370), as modified, is as follows:

At the appropriate place, insert the following:

SEC. ____. (a) None of the funds made available by this Act may be used for any purpose described in subsection (b) until the date on which the Secretary of Transportation certifies, based on the estimates made under section 9503(d)(1) of the Internal Revenue Code of 1986 of unfunded highway authorizations in relation to net highway receipts (as those terms are defined in that section) for the period of fiscal years 2010 through 2013, that the Highway Trust Fund contains or will contain amounts sufficient to cover all such unfunded highway authorizations for those fiscal years.

(b) The purposes referred to in subsection (a) are——

(1) transportation museums;

(2) scenic beautification projects; and

(3) pedestrian or bicycle facility projects.

AMENDMENT NO. 2371

Mr. COBURN. Mr. President, I wish to talk about all three of the amendments I plan on getting votes on. I will give a little summary on amendment No. 2371.

The way the highway trust fund spending is set up now is that if we send your State $100 million, $10 million of that $100 million has to be spent on enhancement projects, regardless of the condition of your roads, regardless of the condition of your highways, regardless of the condition of the bridges in your State. All this does is allow States to not have to follow that in this, No. 1, tough economic time; No. 2, when we know highway deaths related to roads and bridges alone account for 13,000 deaths a year. So we will intend to ask for a vote on that. It does not prohibit the States from doing these enhancements, much as was claimed in debate yesterday but, rather, gives an opportunity for the States to make good value judgments about what is in the best interests of their State in terms of highways, roads, and bridges.

AMENDMENT NO. 2372

Amendment No. 2372 is an amendment which requires us to prioritize. Unbeknownst to most Americans, money that is collected from the purchase of your gasoline has been used—$28 million of it, as a matter of fact—to fund transportation museums. That may be a great use in a time when we are not in the economic situation and circumstances we find ourselves in today. What this amendment does is say, until we get out of the trouble we are in and until the trust fund gets back to where it needs to be, we shouldn't be prioritizing and we shouldn't be earmarking money for transportation museums. It goes back to common sense. The money we are collecting in gas taxes ought to be used to repair and build highways and bridges and roads, not fund museums.

As a matter of fact, several of the museums that have been funded in the last 5 years are already closed. They came through earmarks. We spent millions of dollars. Nobody had any interest in them; consequently, they were closed. In this one bill we have one that has been earmarked. It may be the right thing to do, but now is not the right time to do it.

So what this amendment simply does is say that for this year—this year only—we are not going to allow lower priority items such as a transportation museum to displace money that could be used to enhance somebody's safety or protect their life. I don't know what the outcome on this will be, but I think it will be a telling statement for the Congress that if we decide museums

are more important than somebody's life—more important—the priority is there—it will show a disconnect in this Congress as to whether we are willing to make good priorities with Americans' taxpayer dollars or do we continue to ignore common sense and spend the money the way some or one or many individuals would like to do it, without regard to what the original intended purpose for the money was and without regard to the very serious situation we find with our roads, highways, and bridges.

Senator MCCAIN and I asked the Government Accountability Office to look at where the money was spent over the last 4 years prior to this year, and $3.7 billion of highway money went for transportation enhancements, of which museums are one. Granted, it wasn't a lot of money, but when you take $38 million and apply it to defective bridges in Oklahoma, what you can do is fix 75 of our defective bridges—bridges that are putting people's lives at risk and money that Oklahomans paid out that ought to come back and take care of the problems we have. The same for Colorado. The same for Missouri. The same for all these States. We are behind.

We have 137,000 or so bridges that are suspect in this country. We recently had an individual in Tulsa, OK, who was seriously injured when a chunk of concrete fell from a bridge through his windshield. So it wasn't the people driving over the bridge; it is the people going under the bridge who are put at risk, simply because we have focused money on things other than highways, bridges, and roads. So it is by law right now that we have to spend 10 percent of that money, and some of it goes to museums.

All this amendment says is, right now, let's not spend money on museums and let's fix roads and highways and bridges. We authorized $4.1 billion over the last 5 years for transportation enhancement set-asides. All of that comes out of the 10 percent mandatory—and I have the other amendment I talked about before.

Let me go through what the GAO report said: $850 million had to be spent on scenic beautification and landscaping projects. Well, $850 million could have built a lot of highways in this country. It could have repaired a lot of those 137,000 bridges. Yet we mandated that the money got spent on something other than roads, highways, and bridges. We allocated $488 million for behavioral research. There is no question that some of that is absolutely necessary in terms of us making decisions. We allocated $224 million for 366 projects to rehabilitate or operate historic transportation buildings—$224 million. That is half of what Oklahoma spends a year on what they get from the trust fund, and we did it to preserve historic buildings and transportation novelties rather than spend it on highways, roads, and bridges. We allocated $84 million for road-kill prevention, wildlife habitat connectivity; $28 million, as I said, to establish 55 transportation museums; $19 million to control outdoor advertising.

What this GAO report says is we refuse to make the hard choices about priorities. All this museum amendment says is not now. For 1 year, let's spend the money we were going to spend on museums and put it into real infrastructure, real highways, real bridges.

AMENDMENT NO. 2370

I have one other amendment I wish to discuss—and then I will reserve the remainder of my time and give the chairman her time—and that is amendment No. 2370. We know, because of the increased price of gasoline, and we know because of the economic recession we find ourselves in, that dollars going into the highway trust fund have been added. As a matter of fact, twice in the last 2 years, we have borrowed money from our children and grandchildren to keep the trust fund viable because the taxes coming in off the trust fund have not kept up with the pace of spending we have authorized and subsequently obligated to be spent. We know the highway trust fund is on the brink of insolvency. Within a year, if we don't get the 18-month extension which I think is being planned, we will go back and steal another $7 billion or $8 billion from our kids to keep this system viable.

What this amendment says is, if we are going to do that or until it becomes viable on its own, we should preclude the transportation enhancement program. We know we don't have enough money to take care of the very serious problems we have on our roads, on our highways, and with our bridges. Yet we continue to force the States to spend 10 percent of their money not on highways, roads or bridges. That doesn't make any sense. So this is a much stronger amendment than my earlier amendment that says, until the highway trust fund becomes solvent, until we quit stealing money from our kids and our grandkids and actually pay as we go, pay for what we are wanting to do, at least that 10 percent of the money is going to get spent on real roads, real bridges, and real highways, not on enhancements.

I know many do not agree, and I am readily perceptive of their disagreement. The fact is, if you go out and poll the American people and you ask them: Should we fix the highways that allow 13,000 people a year to die because of the quality of the highway or should we build a walking trail or a sound barrier, they will all say: Fix the highways first.

Come back and do these other things later. Should we build a museum when we have roads in disrepair? No. They will all say that—unless they are the ones benefiting directly from the money going to an earmarked project for a museum.

So it is not a question of common sense, and it is not a question of priority; it is a question of whether we will break the chain of how things are done here and, in fact, say: American taxpayers, you are paying this money every time you pump a gallon of gas, and we are going to make sure that goes for roads, bridges, and highways first; and when we get extra money, we will then enhance the areas around or surrounding the highways.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, the Senator from California will be here shortly to respond to a number of these amendments, since they fall into the jurisdiction of her full committee.

The Senator from Oklahoma has offered three amendments to this bill that are related to transportation. Each of those amendments would limit the ability of States and local governments to spend their highway grants on activities that are eligible for funding under the Federal aid highway program.

Those limitations would not only apply to funds that have been earmarked in this bill. I think Senators should understand they would also apply to the formula grants that go to our States and local governments, which plan their own transportation investments.

The Senator's amendments would take away funding from transportation enhancement, especially streetscaping, bike and pedestrian paths, and the mitigation of highway runoff pollution.

Today, all of these activities are eligible for funding under the current highway authorization law, the SAFETEA–LU Act. Under that act, communities are required to prepare and provide comprehensive transportation plans in order to receive their Federal highway and transit grants. Those plans have to include the communities' plans for bike and pedestrian pathways, because those transportation plans are meant to be comprehensive, and our national policy, which has been debated on the floor of the Senate and the House, has been to recognize bike and pedestrian paths as one component of a complete transportation system. They cannot constitute the largest part of the system but a plan that ignores that element is incomplete.

When we provide bike paths and walkways, we help keep our families and our neighbors safe. Without these paths, many more bicyclists, pedestrians, people who commute to work that way would compete with vehicle traffic. Everybody on a bike or footpath is vulnerable when they are mixed in with heavy traffic. But school-age children are the most vulnerable.

When we debated this policy under SAFETEA-LU, we determined that bikeways and walkways are an important part and are components of our transportation system for people who cannot afford a car and have to walk to work. People who walk to school are impacted by the Senator's amendment.

I don't believe that this bill—the current transportation appropriations bill—is an appropriate time that we should be debating and changing our highway policy, which is so important to all of our communities across the country.

The chairman of the appropriate committee is on the floor. I know she wants to respond. I yield the floor to her at this time.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, what is the order right now? How much time remains before we vote?

The PRESIDING OFFICER. Six-and-a-half minutes remain.

Mrs. BOXER. Mr. President, I thank the chairman of the subcommittee for setting aside some time for me because, as the chairman of the Environment and Public Works Committee, I am concerned about the Coburn amendment. I want to discuss why.

The particular program that the Senator is going after is the transportation enhancements program, created in 1991, in a very bipartisan way in the transportation bill. The purpose of the program is to encourage investment in some very important priorities for the Nation. I want to talk about that.

I particularly want to say that, on average, this program provided $650 million for these important activities each year. I want to point out that if you relate that $650 million to jobs, we are talking about many jobs, because $11.5 billion was made available since 1992, and that translates to 400,000 jobs—good-paying jobs, jobs that do important things, jobs that can't be shipped overseas. And of all the times to come to the floor and go after a program that is a job creator and, in addition, does many important things that actually save lives, I don't think this is the time. Frankly, I don't think there is any time for that.

For example, one of the uses of these funds is that we try to stop highway runoff—runoff that has very harmful chemicals and pollution in it, and it goes right into waterways. That is something we should not stop. That is something we owe to our children, to protect them from pollution.

We also use the funds to reduce vehicle-caused wildlife mortality. Anybody who has seen the result of a collision with a deer or other large animal, as I have in the county where I have lived for 40 years, knows you are dealing with danger for all the parties involved. Why on Earth would we come down here and strike the funding for a program that protects our kids from pollution and saves lives by making sure that our local people do the right thing and make sure these animals don't have ready access or easy access to our freeways?

Let me put this into exact numbers. I know my friend is an exacting debater, and he is a great debater. A study under the National Cooperative Highway Research Program estimated that each year wildlife collisions are responsible for 200 human deaths, 29,000 injuries, and more than $1 billion in property damage. So even with the funding that we have, this is an issue, and we don't want to make matters worse.

I am going to be specific. In Washington State, $75,000 in TE funds, which my friend wants to strike, provided in 1999 for radio collars for elk and an alert system for motorists to reduce elk-vehicle collisions on Highway 101 in the Sequim Valley. As a result of the project, elk-vehicle collisions have dropped from an average of 2.5 every year to only 1 in the past 7 years. Why on Earth do we want to pull money from a fund that saves lives?

In Colorado, $108,000 in TE funds were provided in 2007 to remove broken one-way deer gates and replace them with escape ramps and extend the fencing, which was first set up in 1980, to guide wildlife off of U.S. 550. So those funds certainly are improving safety and saving lives.

Bicycle paths, pedestrian facilities are provided, and the chairman spoke about that. In Georgia, TE funds helped transform the 5th Street bridge span over Atlanta's I–75/I–85 into a pedestrian/bicycle-friendly park, hovering 17 feet above the highway that safely connects buildings of Georgia Tech's campus. The bridge was widened to incorporate bicycle paths, landscaping, lamp posts, trellises, and benches.

I guess there is a different view of what is essential. I think saving lives is essential. These funds are used to save lives. Also, if I could say it, because I know my friend doesn't think it should be a priority to beautify our highways, freeways and roads, I point out that the taxpayers of this country care about their communities, care about how their highways and freeways and their roads look. It is a big difference when you have a highway and a freeway that is taken care of, just as we take care of our homes. That is our job.

In Illinois, a tunnel was constructed beneath the busy Center Grove Road that will provide safer passage for students walking between their school and a nearby sports complex. The tunnel was constructed with the help of TE funds—the very funds my friend wants to cut.

In Plymouth, IN, they can now enjoy 2.2 miles of paved trails that meander throughout the community, connecting schools, parks, rivers, and neighborhoods. And a TE award of $1.2 million helped fund the trail. It was matched by local dollars.

In Minneapolis, TE funds helped construct the Midtown Greenway project that provides a safe bicycle commuter freeway for up to 4,500 cyclists a day.

In Oklahoma, new and existing businesses and shops are thriving after a streetscaping project in downtown Norman. TE funds helped to renovate the downtown area, which included improvements in historical lighting.

I hope we will vote against the series of Coburn amendments. I think they hurt, they will stop creation of jobs, and they will make us less safe.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. I think, first, the Senator doesn't understand amendment 2371. It doesn't eliminate any money. It allows the States to opt out of the enhancement if, in fact, it is better.

The Senator talks about life. With 13,000 people killed on bad roads last year, that didn't have anything to do with driving skills or the cars or anything else, other than we didn't put good roads into place. It is a question about priorities.

There will be no job loss at all. There will be no decrease in spending under amendment No. 2371. What it simply says is that you don't have to take 10 percent of your funds anymore and spend it on enhancements, if you know you have people who are going to die because you don't fix a road.

She talks about 200 deaths versus 13,000 deaths. There are 137,000 deficient bridges. Should we fix the roads or build a sound barrier? Which one is important? Should we fix the roads or build another museum? Should we fix the roads or enhance walkways? It is not as if we don't have walkways and trails. The question is, where is the greatest need? And will we make prudent judgments about giving freedom back to the States and say if, in fact, they don't want to enhance in this tough economic time, they don't have to? It doesn't preclude California or Washington State from doing enhancements. They still can. It just says that in those States that have significant critical infrastructure needs and roads that are at high risk, under amendment No. 2371, they get a chance to opt out and do what is best for their citizens and their State, and to fix some of the bridges, instead of building a walkway or a bicycle trail. They will be able to fix a bridge or fix a road and take a curve out where people are dying, instead of building a museum. It is not onerous. The arguments are specious.

The fact is, we are giving back to the States and saying they can prioritize this. If you think enhancements are not as important as the risks you have on your highways, you can opt out—this year only—and put it into roads, bridges, and highways.

Mrs. BOXER. Will the Senator yield?

Mr. COBURN. I want to finish my point. The Department of Transportation in every State is not run by idiots. Their No. 1 goal is for the protection and enhancement of their citizens. We are now saying to Oklahoma or Colorado or Delaware, you don't get to make the decision about what the priority is because 10 percent of the money you get has to be spent this way.

All this is saying is for this year alone—for this year alone—you can opt out of certain provisions. Some you

may want to do, some you may not want to do. But if you choose to put $7 million in to take a curve out of a road that is killing people versus building a bike trail or a sound barrier, you can do it. You are actually going to save more lives. It will make no difference in the number of jobs created or saved. It has no effect on that whatsoever. The exact same amount of money is going to be spent, and it is all going to be spent on construction of what the highway trust fund was—I am not saying these are not good ideas. I am saying it is the priority of placing them ahead of safety and improving roads, improving bridges. How do we explain to the family of the person who was injured in Tulsa, OK, that we are going to build a sound barrier rather than the bridge where a piece of concrete fell through his windshield and critically injured him? That noise is more important than that individual's life?

I say give the freedom back to the States for this one year to not require a mandatory 10-percent allocation to enhancements. Most of the States probably will not take that. But I can tell you, in my State, where we have the second or third largest number of deficient bridges, we are going to build bridges, we are going to fix the broken bridges, we are going to save people's lives, and we are going to save more people's lives.

By the way, our taxpayers put the money into the highway trust fund for this with every gallon of gas. Oklahoma has never gotten more than 94 percent back and over the last 20 years has averaged less than 80 percent of what we send here. So it is highly insulting in this year of tough, difficult times for us to get less than what we send up, one, and then say: 10 percent of it you cannot spend on the greatest need in your State; that we know better, Washington knows better. Washington does not know better.

We do not preclude any of the enhancements anywhere else. If the State departments of transportation want to do every enhancement and go to the 10 percent, they can go to it. What we are saying is, if your State has a need that is critical to saving people's lives, maybe you don't build a sound barrier right now but, in fact, you fix the road or you repair the bridge. It is common sense.

The question will be, Do we do what is best for the American people or do we stand with the dogma that says we know better? Can we trust Governors and State departments of transportation to make good decisions for the safety of their individual citizens in their States? I think we can.

I am not excited about what will be the outcome of this vote, but I tell you that this kind of common sense—it does not eliminate it. It just says we should do that.

To save the Chamber time, I will ask unanimous consent to withdraw—Mr. President, I want Chairman MURRAY to hear this, if she will. I would ask unanimous consent to withdraw amendment No. 2370 which puts a limit until the trust fund is stable. I will stop that. I will withdraw it, if I can have unanimous consent to do that.

The PRESIDING OFFICER (Mr. KAUFMAN). Is there objection?

Mrs. BOXER. Yes. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. COBURN. We will spend the time voting on something I don't think will be adopted anyway.

On amendment No. 2371, none of the claims the Senator from California made are accurate. They are not accurate. There will be no decrease in jobs. There will actually be the opposite of what she said—enhancement and saving lives. There will be a real ability for the States to make the best decisions for their citizens.

With that, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 2374, offered by the Senator from Oklahoma.

Mr. COBURN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 2374 AND 2377

Mrs. MURRAY. Mr. President, I have talked with the Senator from Oklahoma, and two of the amendments he has offered, No. 2374 and No. 2377, are amendments the committee agrees to. I ask unanimous consent that both of these amendments be adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2374 and 2377) were agreed to.

AMENDMENT NO. 2371

Mrs. MURRAY. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is No. 2371, and there will be 2 minutes of debate equally divided.

The Senator from Oklahoma.

Mr. COBURN. Mr. President, we just had the debate. All it does is allow States to opt out, if they find critical infrastructure needs, from the mandatory 10-percent enhancement rule.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, the Senator does not describe his amendment properly. I ask colleagues to read it. The amendment says:

None of the funds made available by this Act may be used to implement section 133(d)(2) of title 23, United States Code.

That means none of the funds could be used for this very important part of our transportation program which has created 400,000 jobs since 1992. This is not the time to cut these good jobs. This is not the time to say to the States: In your purpose, you can do whatever you want, but then in the real amendment they cannot get any Federal funds anymore to keep wildlife off the freeways, they cannot get funds anymore to do highway beautification, they cannot get funds anymore to stop runoff from highways that will pollute our waterways.

I say the purpose may be what the Senator says, but because he is forced into doing this on an appropriations bill, he says none of the funds can be used for these TE programs, and that will cause injuries and death.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oklahoma.

Mr. COBURN. Mr. President, the amendment is very carefully written so it will not allow the enforcement of administration of funds. If you will carefully read public law—that is how we got it germane—it does not allow the enforcement. It doesn't mean they can't do it. The money can still go out. If you still want to do the enhancements, you can. It simply says you may not have to if you don't want to.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 2371. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 59, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—39

| | | |
|---|---|---|
| Alexander | Ensign | LeMieux |
| Barrasso | Enzi | Lieberman |
| Bayh | Feingold | Lugar |
| Bennett | Graham | McCain |
| Brownback | Grassley | McCaskill |
| Bunning | Gregg | McConnell |
| Burr | Hatch | Risch |
| Chambliss | Hutchison | Roberts |
| Coburn | Inhofe | Sessions |
| Corker | Isakson | Thune |
| Cornyn | Johanns | Vitter |
| Crapo | Klobuchar | Webb |
| DeMint | Kyl | Wicker |

NAYS—59

| | | |
|---|---|---|
| Akaka | Conrad | Lautenberg |
| Baucus | Dodd | Leahy |
| Begich | Dorgan | Levin |
| Bennet | Durbin | Lincoln |
| Bingaman | Feinstein | Menendez |
| Bond | Franken | Merkley |
| Boxer | Gillibrand | Mikulski |
| Brown | Hagan | Murkowski |
| Burris | Harkin | Murray |
| Cantwell | Inouye | Nelson (NE) |
| Cardin | Johnson | Nelson (FL) |
| Carper | Kaufman | Pryor |
| Casey | Kerry | Reed |
| Cochran | Kohl | Reid |
| Collins | Landrieu | Rockefeller |

| | | |
|---|---|---|
| Sanders | Specter | Voinovich |
| Schumer | Stabenow | Warner |
| Shaheen | Tester | Whitehouse |
| Shelby | Udall (CO) | Wyden |
| Snowe | Udall (NM) | |

NOT VOTING—1

Byrd

The amendment (No. 2371) was rejected.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2370 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 2370, offered by the Senator from Oklahoma.

Mr. COBURN. Mr. President, I ask unanimous consent to withdraw the amendment; amendment No. 2370.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2372

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 2372, offered by the Senator from Oklahoma.

The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, 13,000 people died on American roads last year because of the quality of the roads and bridges. We have spent $48 million in the last 4 years on museums, some of which are already closed. The money we collect from taxpayers should be prioritized to build roads, bridges, and highways. This amendment is a simple amendment. It says we should be spending right now, this next year only, no money for museums until we get the roads back.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. I yield my 1 minute to the Senator from Delaware.

Mr. CARPER. Mr. President, when you take the train up the Northeast corridor and the train stops in Wilmington, DE, you are in the middle of what was, 60 years ago, a vibrant shipbuilding area. We built ships to help win World War II. When the war was over, what had been a vibrant shipbuilding industry turned into an industrial wasteland.

Fifteen years ago we began transforming it, and today it is river walks, it is places for people to live, work, recreate, we have parks—it is a beautiful place, an urban wildlife refuge. We are going to build a children's science museum there as well. It costs $11 million. We raised the money from our local sources.

In this bill is the HUD funding, $190,000, to help us complete the package. It is a small amount of money for a great payoff for a lot of kids, tens of thousands of kids who will visit that science museum, who will be excited about science and, hopefully, will go on to have careers as scientists, inventors, and engineers. I ask you to help me defeat this amendment.

Mr. COBURN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing on the amendment. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—41

| | | |
|---|---|---|
| Barrasso | Enzi | Lugar |
| Bayh | Feingold | McCain |
| Brownback | Graham | McCaskill |
| Bunning | Grassley | McConnell |
| Burr | Gregg | Murkowski |
| Chambliss | Hatch | Risch |
| Coburn | Hutchison | Roberts |
| Collins | Inhofe | Sessions |
| Conrad | Isakson | Snowe |
| Corker | Johanns | Thune |
| Cornyn | Klobuchar | Udall (CO) |
| Crapo | Kohl | Vitter |
| DeMint | Kyl | Voinovich |
| Ensign | LeMieux | |

NAYS—57

| | | |
|---|---|---|
| Akaka | Feinstein | Nelson (NE) |
| Alexander | Franken | Nelson (FL) |
| Baucus | Gillibrand | Pryor |
| Begich | Hagan | Reed |
| Bennet | Harkin | Reid |
| Bennett | Inouye | Rockefeller |
| Bingaman | Johnson | Sanders |
| Bond | Kaufman | Schumer |
| Boxer | Kerry | Shaheen |
| Brown | Landrieu | Shelby |
| Burris | Lautenberg | Specter |
| Cantwell | Leahy | Stabenow |
| Cardin | Levin | Tester |
| Carper | Lieberman | Udall (NM) |
| Casey | Lincoln | Warner |
| Cochran | Menendez | Webb |
| Dodd | Merkley | Whitehouse |
| Dorgan | Mikulski | Wicker |
| Durbin | Murray | Wyden |

NOT VOTING—1

Byrd

The amendment (No. 2372) was rejected.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENT NO. 2366, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, on amendment No. 2366 offered by the Senator from Mississippi, Mr. WICKER.

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I would let all fellow Senators know, we have two more votes remaining. If the Senators would allow the speakers to speak, we will be able to move through these expeditiously.

I ask unanimous consent that the remaining amendment votes be 10 minutes in length.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I would urge all Members to stay around and vote and we can get on with the business and anybody who wants to have lunch can have lunch.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Mr. President, very simply, this amendment would allow law-abiding Amtrak passengers to securely transport firearms in their checked baggage. Under current practices, all the American domestic airlines permit firearms in their checked luggage. Other American passenger railroads also allow checked firearms.

Only the federally subsidized Amtrak prohibits law-abiding American citizens from exercising their second amendment right in checked baggage. On April 2 of this year, the Senate passed a similar amendment to the budget with 63 votes in favor of the Wicker Amendment and only 35 against.

During the time since then, Amtrak has made no efforts to respond to this overwhelming bipartisan vote. It is my hope that we get a similar overwhelming bipartisan vote today which results in Amtrak ending this unfair practice. I urge a vote in favor of the amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I would ask all our Senators to pay attention to what we are being asked to vote on. We did vote on a similar amendment during the budget debate. But these amendments are very different. The amendment to the budget resolution never put Amtrak's funding at risk. That amendment would have only prohibited an extra reserve fund from going to Amtrak if it did not allow firearms.

The amendment we are now considering does something much more drastic, it will put at risk Amtrak's appropriations. In order to receive any Federal funding under this amendment, Amtrak would have 6 months to build a process for checking and tracking firearms, it would have to find the manpower necessary to screen and guard firearms, and would have to purchase the equipment necessary.

There is nothing in the underlying appropriations to pay for any of that. So this amendment is going to put a severe burden on them, and if they do not comply, Amtrak will shut down.

I think it is very important that we be careful what we are voting on. I ask my colleagues to oppose the Wicker amendment.

The PRESIDING OFFICER. The question is on agreeing to the Wicker amendment.

Mr. WICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER (Mrs. HAGAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 30, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—68

| | | |
|---|---|---|
| Alexander | Ensign | McConnell |
| Barrasso | Enzi | Merkley |
| Baucus | Feingold | Murkowski |
| Bayh | Graham | Nelson (NE) |
| Begich | Grassley | Nelson (FL) |
| Bennet | Gregg | Reid |
| Bennett | Hagan | Risch |
| Bingaman | Hatch | Roberts |
| Bond | Hutchison | Sanders |
| Brownback | Inhofe | Sessions |
| Bunning | Isakson | Shaheen |
| Burr | Johanns | Shelby |
| Casey | Johnson | Snowe |
| Chambliss | Klobuchar | Tester |
| Coburn | Kohl | Thune |
| Cochran | Kyl | Udall (CO) |
| Collins | Landrieu | Udall (NM) |
| Conrad | Leahy | Vitter |
| Corker | LeMieux | Voinovich |
| Cornyn | Lincoln | Warner |
| Crapo | Lugar | Webb |
| DeMint | McCain | Wicker |
| Dorgan | McCaskill | |

NAYS—30

| | | |
|---|---|---|
| Akaka | Franken | Mikulski |
| Boxer | Gillibrand | Murray |
| Brown | Harkin | Pryor |
| Burris | Inouye | Reed |
| Cantwell | Kaufman | Rockefeller |
| Cardin | Kerry | Schumer |
| Carper | Lautenberg | Specter |
| Dodd | Levin | Stabenow |
| Durbin | Lieberman | Whitehouse |
| Feinstein | Menendez | Wyden |

NOT VOTING—1

Byrd

The amendment (No. 2366), as modified, was agreed to.

Mr. BOND. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2376

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 2376, offered by the Senator from Louisiana, Mr. VITTER.

The Senator from Louisiana.

Mr. VITTER. Madam President, this should be a noncontroversial amendment. It simply retains in present law the current community service requirement which Congress passed into law for public housing tenants who are able-bodied over a decade ago. The House has tried to take out this requirement. It is a very modest 8 hours per month of community service for able-bodied tenants. Automatically exempted are folks over 62, folks who have a disability, caretakers, folks who meet the TANF work requirements, et cetera. It is a modest, reasonable work requirement which has been in the law for years. I urge all Members to retain it through this vote.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. The Senator from Louisiana is offering an amendment that would require continued enforcement of public service for people who live in public housing. I oppose this amendment for two reasons. First, it is current law. Secondly, I am concerned, in this economic downturn, when we have a lot of families struggling, the most struggling families, we are putting this requirement on them. Therefore, I am going to oppose this amendment and will be voting no.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana has 6 seconds remaining.

Mr. VITTER. This excludes folks who have a work requirement under TANF.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

The question is on agreeing to amendment No. 2376.

Mr. BOND. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 25, as follows:

[Rollcall Vote No. 280 Leg.]

YEAS—73

| | | |
|---|---|---|
| Alexander | Ensign | McConnell |
| Barrasso | Enzi | Merkley |
| Baucus | Feingold | Murkowski |
| Bayh | Feinstein | Nelson (NE) |
| Begich | Gillibrand | Nelson (FL) |
| Bennet | Graham | Risch |
| Bennett | Grassley | Roberts |
| Bingaman | Gregg | Rockefeller |
| Bond | Hagan | Schumer |
| Boxer | Hatch | Sessions |
| Brownback | Hutchison | Shelby |
| Bunning | Inhofe | Snowe |
| Burr | Isakson | Specter |
| Chambliss | Johanns | Tester |
| Coburn | Kaufman | Thune |
| Cochran | Klobuchar | Udall (CO) |
| Collins | Kohl | Udall (NM) |
| Conrad | Kyl | Vitter |
| Corker | Leahy | Voinovich |
| Cornyn | LeMieux | Warner |
| Crapo | Lieberman | Webb |
| DeMint | Lincoln | Wicker |
| Dodd | Lugar | Wyden |
| Dorgan | McCain | |
| Durbin | McCaskill | |

NAYS—25

| | | |
|---|---|---|
| Akaka | Inouye | Pryor |
| Brown | Johnson | Reed |
| Burris | Kerry | Reid |
| Cantwell | Landrieu | Sanders |
| Cardin | Lautenberg | Shaheen |
| Carper | Levin | Stabenow |
| Casey | Menendez | Whitehouse |
| Franken | Mikulski | |
| Harkin | Murray | |

NOT VOTING—1

Byrd

The amendment (No. 2376) was agreed to.

Mrs. MURRAY. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, we have made great progress on the transportation and housing appropriations bill, and I thank all Senators for working with us. We have several amendments left to do.

I now ask unanimous consent that Senator LANDRIEU be given 5 minutes to speak on amendment No. 2365, followed by Senator GREGG with 20 minutes equally divided on amendment No. 2361.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Madam President, at this time, then, we will move to those two amendments. We have several other Senators who have notified us they wish to offer amendments.

For the information of all Members, we hope to have votes on at least the two amendments I have just spoken of, the Landrieu and Gregg amendments, at 2:30. If there are other amendments we are able to move at that time, we will then vote on those as well. But, again, we are making great progress. We have a few amendments left, and I urge any Senator who has an amendment, you have a few hours left to get it to us so we can work it out.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 2365

Ms. LANDRIEU. Madam President, I appreciate the chairman allowing me the opportunity to offer this amendment, and also working with Senator BOND, who I understand supports this amendment as well.

I offer this amendment on behalf not only of myself but Senator HARKIN, Senator HUTCHISON, Senator GRASSLEY, and Senator CORNYN. So we have a strong bipartisan group of Senators who are coming to the floor to ask our colleagues to approve an amendment that has to do with a change and modification in the Community Development Block Grant Program that has been put in place to help communities prepare for and recover from disasters. This amendment is going to affect all communities in a positive way across the country that received community development block grant funding and in a very significant way. If this amendment is passed by this body today and continues in this bill, the communities that have received special allocations of community development block grant money will be able to use those funds to match other Federal funds available.

This is the way the normal Community Development Block Grant Program has operated, I understand, since its inception. As my colleagues can see from this chart, in every single situation, except for two, in the last 17 years, that has been the case. So my amendment is basically allowing the floods and natural disasters of 2008 to be included in this effort; in other words, to say, if you received community development block grant funding, you can use those funds as a local and State match for other Federal funding.

This is important for two reasons. One, it has been done in that way the

last 17 years for good reason. For good reason because these communities, you could argue, have even greater challenges than normal, considering that in any time it is tough to provide housing or to build roads or to help their small businesses get back on their feet, but after a catastrophic disaster it is sometimes 5, if not 10, times harder. So why restrict their money at a time when they need the greatest flexibility? That is all this amendment does.

Again, this is the way it has been done in general community development block grants since the beginning of the program. It is the way it was done with disaster community development in every case. Our amendment would simply make that uniform policy for the States affected by the 2008 disasters.

This will be a great help to Texas that is still recovering from the storms of Ike. I will be visiting and having a field hearing through my Committee on Small Business as well as Disaster. Senator HUTCHISON will be attending that field hearing to visit Galveston just on Friday. So approval of this amendment would bring a lot of hope and encouragement to the people on the Gulf Coast, not just in Louisiana but, as I said, in Texas as well. California will be benefited as well as Iowa and some of the States that were affected by the floods.

So, again, this is amendment No. 2365. I think my explanation is sufficient about what this amendment does and what a great help it will be to mayors and parish officials and county officials struggling to rebuild and what a smart way to use and to leverage moneys to get these communities rebuilt quickly in these very difficult economic times.

I ask unanimous consent that the CDBG allocation chart to which I referred to be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CDBG ALLOCATIONS

(Prepared by Ben Billings)

FUNDING SUMMARY

| Rank | State | Total CDBG received | First allocation | Second allocation |
|---|---|---|---|---|
| 1 | Texas | $3.058 b | $1.315 b | $1.743 b |
| 2 | Louisiana | 1.059 b | 438 m | 620 m |
| 3 | Iowa | 798 m | 281 m | 516 m |
| 4 | Indiana | 415 m | 162 m | 253 m |
| 5 | Illinois | 187 m | 59 m | 127 m |
| 6 | Wisconsin | 124 m | 49 m | 75 m |
| 7 | Missouri | 104 m | 25 m | 79 m |
| 8 | Arkansas | 95 m | 25 m | 70 m |
| 9 | Tennessee | 92 m | 21 m | 72 m |
| 10 | Florida | 81 m | 17 m | 64 m |
| 11 | California | 39 m | 0 | 40 m |

Ms. LANDRIEU. Madam President, I see my good friend, Senator GREGG. I yield the floor.

The PRESIDING OFFICER. Has the Senator offered the amendment?

Ms. LANDRIEU. Yes, I believe I have, but if I have not, let me submit it at this time. It is amendment No. 2365.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana, [Ms. LANDRIEU], for herself, Mr. HARKIN, Mrs. HUTCHISON, Mr. GRASSLEY, and Mr. CORNYN, proposes an amendment numbered 2365.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with. I suggest we don't have to read the whole amendment and we will leave it lying until we can vote on it later today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Disaster Relief and Recovery Supplemental Appropriations Act, 2008)

On page 318, between lines 11 and 12, insert the following:

SEC. 234. The matter under the heading ''COMMUNITY DEVELOPMENT FUND'', under the heading ''COMMUNITY PLANNING AND DEVELOPMENT'', under the heading ''DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'' in chapter 10 of title I of division B of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110–329; 122 Stat. 3601) is amended by striking '': *Provided further*, That none of the funds provided under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program''.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 2361

Mr. GREGG. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 2361.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself, Mr. COBURN, and Mr. BENNETT, proposes an amendment numbered 2361.

Mr. GREGG. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of stimulus funds for self-congratulatory signage that allows lawmakers to promote their spending of taxpayer dollars on stimulus projects)

On page 194, after line 23, add the following:

SEC. 1_____. (a) This section may be cited as the ''Axe the Stimulus Plaques Act''.

(b) Notwithstanding any other provision of law, none of the funds made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) may be used for physical signage to indicate that a project is being funded by that Act.

Mr. GREGG. Madam President, this is an amendment that shouldn't have to be offered, to be very honest with you. Today there are a lot of projects being pursued under the stimulus package, and every one of those projects that is a road project, unfortunately, finds itself having to put up a sign that says this is a good project being paid for with tax dollars. These are self-congratulatory signs. They are political signs. They are there so lawmakers can pat themselves on the back and say: Wow, look at this project we are doing.

But these signs cost money. Actually, when you add them all up, they cost a lot of money. They are a total waste of money. There is no reason to have these signs by every project that occurs in America. It is projected there will be somewhere around 20,000 to 22,000 projects. The signs cost about $400 in New Hampshire, and they cost as much as—I think it was around $3,000 in New Jersey for each sign. New Hampshire is a little more efficient. I suspect in North Carolina they probably don't cost much more than $400, but if you add that up, we are talking about a cost of somewhere between $6 million and $15 million being spent on signs. That is an inexcusable waste of money. That money could be used for something valuable, for example, rather than a sign.

The practical effect of this is, the signs should say ''Wasting taxpayers' dollars; project funded by the future generations of Americans,'' if they are going to be honest signs. But I am not asking for any signs. There shouldn't be any signs.

Instead, the highway departments across this country are being basically required to put up these signs as the projects are built. In fact, there was one example in New Hampshire—there were lots of examples in New Hampshire, but there was one community in New Hampshire where the leadership of that community said: We don't want to put the signs up because we think they are a waste of money, and they were told, if they didn't put up the signs, they wouldn't get the money. That is happening all across the country.

So this amendment should be unnecessary. It should be obvious—obvious—that we don't have to put these signs up; that we shouldn't be spending money in this way. If we are going to spend $6 million to $18 million to $20 million on something, let's spend it on what actually produces some value rather than creates a self-congratulatory event for the local political leaders and for the Congress. We do enough self-congratulating around here. We shouldn't have to make the taxpayers pay for it. Instead, we should be a little more responsible with the taxpayers' money.

It is a very simple amendment. That is why I am not going to spend a lot of time on it, because I think it is so obvious it should be accepted and passed, that it should occur. It is one of those amendments where you sort of scratch

your head and say: Why did we even have to offer this? Why should we have to offer this amendment saying you don't put up signs spending taxpayers' dollars to congratulate yourself for a project the taxpayers paid for. But we do, of course, in this instance because the Department has insisted on these signs across America.

That is what the amendment does. I reserve the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays are ordered.

The Senator from California.

Mrs. BOXER. Madam President, I rise in opposition to Senator GREGG's amendment and I wish to say why I think there are many reasons not to support it. I started off my political career as a county supervisor. It is through that agency that when we are undertaking a major road project, we put up a sign first of all to let people know work is underway and what it is about because a lot of times people don't know if it is going to be a month-long project or a day-long project. We would put up a sign to let people know who is funding the program, to let people know whether it is a State project, a local project. No big deal. We did this—and we do this—under Republican leadership, under Democratic leadership. It is information.

I think the true source of this amendment is a frustration. This is my own opinion. I am sure my friend absolutely would not agree with me, but it is my sense that there is a frustration by the people who voted no on the Economic Recovery Act, the stimulus bill; there is a frustration that it is working. They predicted gloom and doom.

Let me tell you what is happening in this great Nation of ours. We have a long way to go to get jobs up and running, there is no question about it, but the stimulus bill has already saved or created a million jobs. Let me tell you what else. We are looking at growth for the first time in this economy. When we were faced with the worst recession since the Great Depression—and I know it because the Presiding Officer had the same issue as she looked at what to do—we had to decide whether it made sense to do some job creation here, and we didn't get many Republican votes, but thank goodness we got three. Thanks to those good people for joining us because I can tell you this: In my home State, we are starting to see it happen. We are going to get tens of billions of dollars.

So now I think the issue is a frustration with the fact that we won that vote and we got that done and those jobs are being created as we speak. Slowly but surely we are being lifted out of this darkness.

Here we have a small amendment, I agree. You know what. If it passes, no harm. But I have to say, why on Earth would you want to hide from the American people the fact that the recovery package we passed is putting people to work? People want to know. Not everybody has a computer. Not everybody is going to follow up on the transparency this administration has put in place. They are showing that every day it is working, where it is happening, and so on and so forth—not by name but how many jobs are created and the like.

It seems to me, if you are improving our highways, our transit systems, our water infrastructure, our government buildings, and the source of funding is the stimulus program, the Economic Recovery Act, let people know. Why would we prohibit funds under this act from being used for these signs that simply inform taxpayers that a project is being made possible by taxpayer dollars from the stimulus program? I think it is a question of making our people more informed, giving them information.

My friend says it costs money to do a sign. I couldn't agree more. Everything costs money. It costs money to do a sign. Guess what. People work in those places where those signs are made. People proudly work on those jobs and get paid a good amount and can support their families. So this is a jobs program. Part of it is to tell the people, yes, the funding for this project is paid for by the stimulus program, the economic recovery program, and, yes, people were paid to work in places that make these signs. I don't think it is logical to keep this information from the people. What purpose is served? It is going to save a little bit of money, but the fact is, the purpose of the stimulus bill was to create jobs, and you are going to take away jobs from people who are making those signs. I think this is an antijobs amendment we have before us.

Look, the Recovery Act is working. I think it is frustrating those who predicted it would never work, and they will predict it will never work until they have their last breath because that is the nature of politics; you have to spin it one way or another. But we know the economy is turning around. We also know we need to create many more jobs, and this amendment will not create one more job. I don't believe it will. The fact that we are doing some good things with this funding, including making buildings more energy efficient, upgrading flood protection, let the American people know that their funds are being spent well. I think that is money spent well.

Some people may see a program, by the way, I say to my good friend, and they don't like it. They say: Why on Earth are they using my money to do this particular project? Let them know. Let them know. So if they like what they see, they understand where it came from. If they don't like what they see, they understand where it came from.

I urge my colleagues to oppose the Gregg amendment. I agree with my friend, it is not a major amendment, but I think it speaks to the point that the American people should have an easy way of knowing where these funds are going and the projects they are building. We certainly had a big enough battle on the floor of the Senate—oh, boy, did we have a battle—trying to find those three votes. So it passed. It was controversial. Some in America don't support it; others in America do. I think they should have a right to know if a project is being brought to them by way of this important bill that I think is helping turn our economy around.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, the issue isn't the stimulus package, although I have reservations about that. I would be happy to debate that with the Senator from California at some length because I think adding almost three-quarters of a trillion dollars of new debt to our children's backs on a package that will spend out through 2019 is hardly stimulus, especially when we see only 20 percent of that package will spend out by the end of this year, and maybe 50 percent next year.

We had Chairman Bernanke saying, essentially, that we are out of the recession. That all comes from borrowing that our children will have to pay. In my opinion, it is not fair to pass that debt on to our children, that $787 billion. That is not the debate. This debate is about whether we should be congratulating ourselves with tax dollars. It is self-aggrandizement at the expense of the taxpayer. This is going out and buying advertising to promote ourselves and having the taxpayer pay for it.

We can clearly spend these dollars more efficiently doing something else. Sure, it is not a lot of dollars, but when we add it all up, $18 million is a lot of money. We can do something more constructive besides putting up a sign that says we are wonderful because we are spending their money. If we want to say we are doing great things for them, we can say here is a sign telling them that. But rather than having the people pay for that sign and telling them they are going to have to pay for it, let's have the Democratic Senatorial Committee or the Republican Senatorial Committee pay for that sign. Let's do that if we think it is that important as a piece of political promotion. But it is not. I don't think the Democratic Senatorial Committee would pay for that sign because they would see it as a waste of money. I don't speak for them, but I don't think the Republican Senatorial Committee would pay for this either. I would recommend that they not do it.

These signs are a waste of money. Do they create jobs? Well, actually the signs in New Hampshire are made in prisons. They cost money because the materials cost money. I guess that is why we get them for $300. In New York,

it is $3,000 a sign. As a practical matter, I don't think we can argue that making these signs is somehow stimulating the economy. All it is doing is saying: Hey, we are wonderful; we are going to take your money and use it to tell you what a wonderful job we are doing with your money. It is not fair or appropriate.

I hope people will support the amendment. As has been mentioned by the Senator from California, this is not a major amendment, but it is one that states an attitude toward how we spend money. I think it is important in that context.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENSIGN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. ENSIGN. Madam President, I will have a motion momentarily. I will wait for the manager of the bill to come on the floor.

I will be offering a motion to recommit the bill back to the Appropriations Committee at last year's spending level. On the front of this bill, it says that last year's spending level was at a level which included last year's spending, plus the stimulus money. So when they say this year's spending level, it looks as if there is a huge cut, when in fact, there is actually a 23-percent increase in this year's spending bill over last year's.

So the motion I am about to make is asking to report the bill back to the committee, where the committee can make whatever specific recommendations within that level but to do that at last year's spending level.

I have heard the rhetoric from politicians in the House, Senate, and the President talking about how serious a problem we have with the deficit and how serious a problem we have with the debt in our country. That is one of the reasons you saw hundreds of thousands of people on the Mall here this last weekend. People are really concerned about the direction of our country. We have heard economic experts talking about America actually approaching its borrowing capacity. If our country ever reaches its borrowing capacity, it will be an economic disaster. It would be like a business having many expenses and no cash in the bank. The bank and all its lenders saying: Sorry, we are not giving you any more money.

Well, we owe people from all over the world. We owe sovereign wealth funds. We owe China, Japan, European countries and other sovereign wealth funds all over the world. They hold a lot of our debt. The more we continue to borrow, the more we become beholden to these other countries. And when the next trillion dollars needs to be borrowed, what if these other countries say to us: No, we are not going to do it. The other thing they could also say is: Yes, we will give you that next trillion dollars. We will loan the money to you, but it is going to be at a higher interest than you want to pay. And by the way, the other debt we also hold that you owe us, we are going to raise the interest on that.

You see, we are not going to be in a position to say: No, that is not exactly what we want to do. The more debt we run up, the less of a position we will be in as a country to be able to bargain. We literally cannot sustain the level of debt we are developing here in the United States.

I see the pages down in front of us here—this younger generation. The younger generations across our country are being saddled with the debt this Congress, this President, the past President, and past Congresses have run up. Unfortunately, instead of slowing that borrowing down, we are increasing it at a faster and faster rate.

So this is a very simple motion. This just says: Let's start taking these appropriations bills and let's at least start freezing spending. That is basically what this motion suggests. It just says: Freeze spending.

By the way, a lot of the programs that are in this bill were already dramatically increased in the stimulus bill. So not only did we increase last year over the previous year with the regular appropriations process, we then added money to the stimulus bill on top of that.

So what did they do this year? Instead of being fiscally responsible and saying: Let's at least freeze spending—which I will bet the American people would even suggest since we are in tough economic times, that maybe we should do a little haircut and cut spending a little bit—no, no, the majority has said we are actually going to increase the level of spending in this bill by 23 percent, way above inflation, and this is at a time in our country when we cannot afford it. So I think this is a place to start showing some fiscal responsibility, and there will be other opportunities where we can as well.

We all know entitlement spending is out of control in this country. We all know that needs to be addressed. Medicare and Medicaid alone can bankrupt the country. The President talked about that the other night. That is one of the reasons we need to actually get entitlements under control in our health care bill—which, by the way, none of the health care bills do.

We need to get entitlement spending under control, but we also need to get what is called discretionary spending, or these annual appropriations bills, under control as well. We are not talking about small amounts of money anymore. Even though the entitlements are the biggest part of the budget, the discretionary or the annual spending bills are a very significant amount of money these days.

As I mentioned before, this year's bill is a 23-percent increase over last year's. The committee report says it isn't, that it is actually a cut from last year. But let me explain exactly how they do that. They took last year's bill and added on the money we spent in the stimulus bill to last year's bill. They say that is what we spent last year, so that this year we are going to spend less than we did in the combination of those two bills. They call that a cut in spending. Well, that is phony Washington math. That is how we end up with the kinds of deficits and the debt we have in this country. People claim a cut in spending when it is actually, if you compare apples with apples, a 23-percent increase over last year.

So I think it is time. It really is time. Republicans and Democrats should join together in thinking about not even the next generation, but let's think about today. Let's think about what we are doing to this country today. Let's start showing some fiscal responsibility around here. Let's start joining together as Americans in not running up this massive amount of government debt. Let's start saying no to some of the special interests that come into our office. Let's start by saying that.

So, Madam President, I have a motion at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] moves to recommit the bill (H.R. 3288) to the Committee on Appropriations with instructions to report the same back to the Senate with changes that reduce the aggregate level of appropriations in the Act for fiscal year 2010 by $12,713,000,000 from the level currently in the Act.

Mr. ENSIGN. So just to summarize, this is a motion to recommit the bill back to the Appropriations Committee. It does not take away the power of the Appropriations Committee. It does not say that it cuts any one individual program. The Appropriations Committee would have the authority to be able to put its priorities within the bill. But it does say we are not going to spend more money than we spent last year. That is, very simply, what it says. We are going to freeze the level of spending to last year instead of having a 23-percent increase over last year.

To reiterate, in the stimulus bill last year, tens of billions of dollars were added to these very same programs that are in this spending bill. So I believe the responsible thing to do is for us to vote on this motion and to show we are really serious about controlling the debt and the deficit in the United States of America.

Madam President, I yield the floor.

Mrs. MURRAY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2403

Mr. MCCAIN. Mr. President, I ask unanimous consent that the pending business before the Senate be set aside in order to consider amendment No. 2403.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2403.

Mr. MCCAIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of funds to carry out the Brownfields Economic Development Initiative program administered by the Department of Housing and Urban Development)

On page 318, between lines 11 and 12, insert the following:

SEC. 2_____. None of the funds made available by this Act may be used to carry out the Brownfields Economic Development Initiative program administered by the Department of Housing and Urban Development.

Mr. MCCAIN. Mr. President, the amendment is very simple. It prohibits, as recommended by the President, the use of funds under this act to carry out the Brownfields Economic Development Initiative grant program that is administered by the Department of Housing and Urban Development.

In May of this year, President Obama released a list of 121 programs that he recommended be terminated or reduced. One of the programs the President recommended for termination is the Brownfields Economic Development Initiative.

The administration stated specifically that this grant program is extremely small relative to other programs that address this need. They added that local governments have access to other public and private funds that can address this same purpose.

In justification for the termination, the administration wrote—and I quote from the document ''Terminations, Reductions and Savings, Budget of the U.S. Government, Fiscal Year 2010,'' that is issued by the Office of Management and Budget. In other words, it is a number of terminations and reductions that the administration wants carried out, with justification for doing so.

So far I have had amendments on several of these and they have all been overridden. Our amendments have not carried and I imagine I will lose this also. The moral is why didn't OMB stop this? Because clearly it is being totally disregarded by the appropriators. The American people pay attention to the President's recommendations. But now I have had a number of amendments that have been in keeping with the President's request—the same President who said we will go line by line in the appropriations bills and eliminate those that are unnecessary.

Again, the Office of Management and Budget has said:

The Brownfields Economic Development Initiative (BEDI) is a competitive grant program whose purposes are served through much larger and more flexible Federal programs. BEDI is designed to assist cities with the redevelopment of abandoned, idled, and under-used industrial and commercial facilities where expansion and redevelopment is burdened by real or potential environmental contamination. These funds are targeted for redevelopment of brownfield sites for the purposes of economic development and job creation. While these are very important objectives, the program is very small, and local governments have access to other public and private funds, including the much larger Community Development Block Grant (CDBG). The 2010 Budget funds CDBG as $4.5 billion, or 14 percent above the 2009 enacted level.

We are talking about trying to reduce spending and the CDBG program is now 14 percent, $4.5 billion, above 2009-enacted levels.

A 1999 Government Accountability Office (GAO) report (RCED–99–86) found that about $469 million was planned and $413 million in Federal funds were obligated for brownfields activities in 1997 and 1998. Of the planned total, BEDI appropriations ($25 million) contributed just five percent of the planned expenditure.

By terminating this program, the Department of Housing and Urban Development is also able to reduce the administrative workload associated with managing a small and duplicative program. Focusing staff on higher impact and higher return activities is a priority for the agency.

I am sure that the opponents of my amendment will argue that the Senate did not include funding for this program in the underlying bill. The committee report states that ''The Committee does not recommend an appropriation for the Brownfield Redevelopment program, consistent with the budget request. The Committee notes that other Federal appropriations are available for the same purpose through the Environmental Protection Agency. Communities may also use CDBG funds to redevelop Brownfield's sites''

If that is the case, and the committee agrees with the President that Brownfield Redevelopment under HUD is duplicative, then why does the committee report also contain three specific earmarks totaling $1.3 million for the redevelopment of Brownfields properties as Economic Development Initiatives? It makes no sense. In here, despite the committee saying they are eliminating the program, we have $600,000 for the redevelopment of Brownfields property into a business park in Cincinnati, OH; $500,000 for the redevelopment of Brownfields properties in Waterbury, CT; $200,000 for Brownfield redevelopment in Pittsburgh, PA.

Americans are hurting. The Nation's unemployment rate is nearly 10 percent, the deficit for this year is estimated to be $1.6 trillion, the projected 10-year deficit jumped from $7.1 trillion to $9.1 trillion, our public debt is expected to reach $12.1 trillion by mid-October. When is it going to stop?

Again, I urge my colleagues to listen to the American people. The American people are rising up everywhere. Although it is a bit derided and underestimated, at the TEA parties and demonstrations and the marches last weekend, at conservative estimates 70,000 people came from all over the country to march. In Yuma, AZ 1,000 to 2,000 people decided to demonstrate and it is still pretty warm in Yuma, AZ this time of the year and all over my State.

So what did we do? We say we are going to terminate a program in the committee report and then of course we cannot resist earmarks and porkbarrel spending which has led to corruption.

There is a trial going on right now of a lobbyist who some years ago engaged in paying off legislators for earmarks. That person, if convicted, will be the 23rd person convicted or who pled guilty in the Abramoff scandal. I would like to tell the American people that things have improved, that things have improved since the Abramoff scandal broke and people pled guilty and went to prison, but I can't. I can't tell them there has been any improvement. I can't tell them that corruption doesn't go on here in Washington. I can't tell them that there are no more Duke Cunninghams out there who are residing in Federal prison.

You know what, they are sick and tired of it. This is only $1.3 million. That is less than chickenfeed around this place. But we have to start somewhere and we might start with implementing the recommendations of the President of the United States and the Office of Management and Budget and get rid of a program that is obviously unneeded.

I don't want to take too much more time of the body, except to again say there is a peaceful revolution going on out there. It is not just over health care reform. It is over the out-of-control spending and the trillions and trillions of dollars of debt we are laying on future generations. Our children and our grandchildren are inheriting an unsustainable situation while we do business as usual here in the Senate.

I could go back to Coast Guard vessels that the Coast Guard and the Navy never needed. I could go back to museums that were funded that are now closed all over America, and a lot of other abuses that have taken place. But I hope my colleagues will vote in favor of this amendment. Those who do not, I hope people at home will pay attention, will pay attention to the out-of-control spending that continues here and the mortgaging of our children's futures and what we are doing in the commission of generational theft.

I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mrs. MURRAY. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, there seems to be some possibility of ambiguity in the amendment. I appreciate the Senator from Washington bringing that to my attention. I ask unanimous consent, if necessary, to be able to modify the amendment before the vote with the intent of the elimination of these three earmarks as I have argued on the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I say to the Senator, he doesn't need to ask unanimous consent. We are happy to work with his staff so as to modify it with the intent of what he was trying to do. I will not object.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCAIN. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2410

Mr. DEMINT. Mr. President, I ask unanimous consent to set aside the pending amendment and call up DeMint amendment No. 2410.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 2410.

Mr. DEMINT. I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 2410

(Purpose: To limit the use of funds for the John Murtha Johnstown-Cambria County Airport)

On page 179, between lines 4 and 5, insert the following:

**SEC. 118. LIMITATION ON USE OF FUNDS FOR JOHN MURTHA JOHNSTOWN-CAMBRIA COUNTY AIRPORT.**

None of the funds appropriated or otherwise made available by this title (including funds derived from the Airport and Airway Trust Fund) may be obligated or expended by the Secretary of Transportation, the Administrator of the Federal Aviation Administration, or any other officer or employee of the Department of Transportation for use at, or in connection with operations (other than air traffic control operations) at, the John Murtha Johnstown-Cambria County Airport, including to provide subsidized air service to or from that Airport.

Mr. DEMINT. Mr. President, I will take a few minutes to talk about this amendment to the transportation-HUD bill we are on this week. I think if there is one expenditure by the Federal Government over the last 10 years that has drawn the attention of the American people more than the ''bridge to nowhere,'' it is probably the $200 million that has gone to the John Murtha Airport in Johnstown, PA.

Americans are greatly concerned about the level of spending and debt, particularly the spending they consider wasteful or maybe even corrupt. There have been a number of media documentaries on the John Murtha Airport.

I would like to talk about it a little bit today because my amendment would disallow the use of any funds in this bill to be used to administer any additional subsidies or grants to this particular airport.

We disagree a lot on Federal spending; here and there are different things, different priorities we can debate about. But if there is any such thing as waste, it is this airport. I will tell you why. Over the last 10 years, or actually 20 years, this little airport in Johnstown, PA, has received about $200 million in Federal funds, $150 million of that was steered directly by Congressman MURTHA himself, who uses the airport to come back and forth to Washington and for campaign stops.

It only has three commercial flights a day to one destination and that is to Washington, DC. Only an average of about 20 passengers a day use this airport. The American taxpayers are on the hook for about $1.5 million a year in Federal subsidies. Every ticket to Washington and back is subsidized for about $100, which means the American taxpayers pay almost as much for the ticket as the passenger does, not just for one trip or two but continually year after year.

In spite of the fact that major media outlets for a number of months have used this as an example of the fleecing of America, this continues to go on. In effect, when the stimulus bill was passed with all the promises of transparency and priority use, $800,000 of funds went to this airport to repave an alternate runway which is seldom, if ever, used.

A lot of us in the Congress and the Senate have worked for years on small rural airports to try to get some money to extend a runway so corporate aircraft could come in, so maybe businesses could locate in areas where there was not commercial air traffic. Getting $100,000 for an airport is a major accomplishment sometimes, but $200 million for an airport that averages 20 passengers a day, that many times there are more people handling security at this airport than there are people going through the lines, is something we need to stop.

If we cannot stop it, we cannot stop anything. Last Saturday in front of the Capitol, hundreds of thousands of people gathered. It was not a Republican gathering, I can tell you that because I was there. It was average Americans, moms and dads with their children, grandmas, grandpas, people who had never been involved in politics before who were very concerned about the level of spending, not just this administration.

This is not a criticism of this administration. We are talking about the last 15 or 20 years. People are concerned about the level of spending and borrowing and debt, taxes and government takeovers in all areas of our economy.

Health care is certainly something that brought it to a head, but these people are here concerned by the fact that they believe our country is on the edge of the cliff. They would like to see us in the Congress begin to move back away from the cliff and take some of the things that are not necessary here in Washington and begin to trim them back.

But I think we can say here, if we cannot cut the funding for this little airport in Pennsylvania named after the Congressman who has helped to get $200 million, if we cannot stop funding it, stop subsidizing tickets, if we cannot look at the facts in this particular case and decide as a Congress to stop this, then there is nothing we can cut. Then there is no such thing as waste, and there is no such thing as fraud and corruption throughout this Federal Government. If we cannot agree, as Members of the Senate, to stop this—we are not taking away the $200 million they have already gotten, the $800,000 for the alternative runway which they have there, which did not need repaving in the first place, we are not closing down the airport or stopping any air travel there. We are just saying: Enough is enough.

We have bought equipment there, radar equipment, spent millions of dollars that is not even being used. It is not being staffed. It is time we at least focus on one thing and say that we can begin the process of moving this country away from a cliff of economic and financial disaster.

I hope on this bill, with this amendment, that we can, in a bipartisan way, agree this is one thing we do not have to have at the Federal level, that we can begin to shift priorities to those things we are supposed to do at the Federal level. It is certainly not to fund a pet project of one Congressman to the tune of $200 million.

I encourage all my Senate colleagues, Republican and Democratic, to

support an amendment that would simply disallow the use of any funds in this bill to be used to continue the administration of subsidies or grants to this airport.

I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, for the information of all Senators, we are about to set up a series of votes to occur shortly. We will make that unanimous consent agreement in the next few minutes.

In the pending time, I will speak against one of the amendments that will be considered; that is, the one that was offered by the Senator from Nevada. It is a motion to recommit and reduce spending for our transportation and housing bill.

I would like to point out to all our colleagues, the funding levels that are contained in this bill are consistent with the budget resolution this entire Senate agreed to in the spring and are $1.2 billion below the level of funding that was requested by the President in his request.

The majority of the funding increases that are contained in our bill support our Nation's vulnerable citizens and the needs of the communities. Those increases include funding to support rental assistance for low-income families, elderly and disabled tenants who use Section 8 vouchers, living in project-based housing or those who live in public housing.

The funding provided ensures that families receiving assistance will maintain that. This is critical because, without assistance, these individuals and families would be at the risk of homelessness, at a time that all of us know that many of our citizens are struggling today.

We have increased funding for homeless programs, which will help prevent more families from becoming homeless. Last year we should all note there was an increase of 9 percent in family homelessness in this Nation.

We have increased funding to support our States and our local communities to address their housing needs and support economic activities ties through the Community Development Block Grant Program. We increased funding in our Nation's infrastructure that will both improve the safety of our Nation's roads and bridges and create and sustain critical jobs.

We have increased funding for safety inspectors at the Federal Aviation Administration, as well as funding for a new program to invest in railroad safety technologies such as positive train control.

In comparison, there are drastic consequences, we should note, to freezing funding for this bill at last year's level. Funding frozen at the fiscal year 2009 level could result in tens of thousands of people who currently hold vouchers to lose their housing. During this economic crisis, we should not be putting our low-income families at risk and out on the street.

In addition, a funding level frozen at the 2009 level would put at risk our critical funding for air traffic controllers. My colleague from Missouri has talked about the importance of increasing the air traffic controllers, and we know the Federal Aviation Administration is facing a shortage of experienced air traffic controllers. We cannot afford to ignore the safety needs of the aviation system.

This subcommittee carefully weighed the merits of all programs before us. We cut programs below the President's request and achieved additional savings. Further reductions now requested by this amendment would seriously undermine critical transportation safety activities. I ask colleagues to reject the amendment when we vote.

We should have a unanimous consent agreement shortly to have votes begin in the next several minutes.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mrs. MURRAY. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate proceed to vote in relation to the following amendments and motion in the order listed; that no amendments be in order to the amendment or the motion prior to a vote; that prior to the stacked votes in this sequence there be 2 minutes of debate equally divided and controlled in the usual form; that after the first vote, the succeeding votes be limited to 10 minutes each: the Gregg amendment, No. 2361, and the Ensign motion to recommit.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. MURRAY. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. GREGG. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2361

Under the previous order, there will be 2 minutes of debate equally divided prior to a vote on the Gregg amendment.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, this amendment does a very simple thing. It says taxpayers don't have to pay for signs which tell them their money is being spent well. It makes no sense that taxpayers should be spending millions of dollars to put up signs to tell them their money is being spent well. It has to be extraordinarily frustrating to taxpayers to see that happening. It certainly is not a good use of their money. The money can be used on a lot of other things—building a road, repairing bridges, improving buildings that need to be improved, improving parks. Let's not put up signs on every one of these sites across America saying we congratulate ourselves for doing the project. It is self-congratulatory, it is political, and it is inappropriate. These truly are signs to nowhere. A total waste of money. They should not be required. We should reject them as being required. That is what the amendment does.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired. Who yields time in opposition?

The Senator from California.

Mrs. BOXER. Mr. President, this is a most political amendment. I got to thinking, after Senator GREGG said we can't show a sign where economic recovery funds are being put to use on a road or a bridge or highway. We should keep it from the people because he says it is self-congratulatory.

It is not self-congratulatory. Some people may not like the project; some people may. It is about transparency and openness.

I have to say to you, this makes no sense. Where were Senator GREGG and his friends on the Republican side when George Bush and the Republican Congress spent $33 million to send out a letter telling everyone their Economic Recovery Act was working by way of refunds? I never heard one word out of the Senators from the other side of the aisle. That cost $33 million.

Mr. President, I ask unanimous consent that a copy of the tax rebate letter that went to every American be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEXT OF IRS TAX REBATE LETTER

NOTICE OF STATUS AND AMOUNT OF IMMEDIATE TAX RELIEF

We are pleased to inform you that the United States Congress passed and President George W. Bush signed into law the Economic Growth and Tax Relief Reconciliation Act of 2001, which provides long-term tax relief for all Americans who pay income taxes.

The new tax law provides immediate tax relief in 2001 and long-term tax relief for the years to come.

As part of the immediate tax relief, you will be receiving a check in the amount of $XXX during the week of XX/XX/01.

Your amount is based on information you submitted on your 2000 federal tax return and is just the first installment of the long-term tax relief provided by the new law. The amount of the check could be reduced by any outstanding federal debt you owe, such as

past due child support or federal or state income taxes. You need to take no additional steps. Your check will be mailed to you. You will not be required to report the amount as taxable income on your federal tax return.

On the reverse side of this letter is information on how your check amount was calculated. If you need additional information, please visit the IRS web site at www.irs.gov or call 1–800–829–4477. Please keep a copy of this notice with your tax records.

Mrs. BOXER. I would say to you, this is politics. This is going to save—Senator GREGG's amendment—$4 million. This cost $33 million.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mrs. BOXER. I yield the floor. I hope we vote ''no.''

Mr. GREGG. Mr. President, I ask for one point of personal clarification.

I did not vote for President Bush's stimulus package either.

Mrs. BOXER. Mr. President, I ask for a rebuttal.

This is not about whether you voted for the stimulus. It is about whether you objected to spending money to tell people what the stimulus does. It seems to me, under Republican leaders we did not hear anything. Now we hear it.

I yield the floor.

Mr. GREGG. Mr. President, do two wrongs make a right?

The ACTING PRESIDENT pro tempore. All time has expired.

Mrs. MURRAY. Mr. President, regular order.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the Gregg amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER (Mr. SANDERS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—45

| | | |
|---|---|---|
| Alexander | Ensign | Lugar |
| Barrasso | Enzi | McCain |
| Bennett | Gillibrand | McConnell |
| Bond | Graham | Murkowski |
| Brownback | Grassley | Risch |
| Bunning | Gregg | Roberts |
| Burr | Hatch | Schumer |
| Chambliss | Hutchison | Sessions |
| Coburn | Inhofe | Shaheen |
| Cochran | Isakson | Shelby |
| Collins | Johanns | Snowe |
| Corker | Klobuchar | Thune |
| Cornyn | Kyl | Vitter |
| Crapo | LeMieux | Voinovich |
| DeMint | Lincoln | Wicker |

NAYS—52

| | | |
|---|---|---|
| Akaka | Cantwell | Feinstein |
| Baucus | Cardin | Franken |
| Bayh | Carper | Hagan |
| Begich | Casey | Harkin |
| Bennet | Conrad | Inouye |
| Bingaman | Dodd | Johnson |
| Boxer | Dorgan | Kaufman |
| Brown | Durbin | Kerry |
| Burris | Feingold | Kohl |
| Landrieu | Murray | Tester |
| Lautenberg | Nelson (NE) | Udall (CO) |
| Leahy | Nelson (FL) | Udall (NM) |
| Levin | Pryor | Warner |
| Lieberman | Reed | Webb |
| McCaskill | Reid | Whitehouse |
| Menendez | Sanders | Wyden |
| Merkley | Specter | |
| Mikulski | Stabenow | |

NOT VOTING—2

Byrd Rockefeller

The amendment (No. 2361) was rejected.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, for the information of all Senators, we have one more vote right now. We expect to be debating several amendments over the next hour or so. I believe there are about four or five amendments left. We want to finish this bill this afternoon. If you have any issues, please bring them to the committee during this vote or when this vote is over so that later this evening or early this evening, I hope, we can move to the final votes on this bill.

With that, I believe the motion to recommit by the Senator from Nevada is in order.

MOTION TO RECOMMIT

The PRESIDING OFFICER. Who yields time on the Ensign motion to recommit?

Mr. ENSIGN. Mr. President, this is a committee report here. It says, ''2009 appropriations, $117 billion.'' This is the kind of fuzzy math we deal with here in Washington, DC. Last year's appropriations bill was $55 billion, it wasn't $117 billion. It is only $117 billion if you count in the money from the stimulus bill. That looks as if it is being counted here so that they can claim they are actually cutting last year's bill. This bill has a 23-percent increase over last year. What this motion to recommit says is, let's show some fiscal restraint around here and let's freeze spending to last year's level.

So we want to recommit the bill back to the Appropriations Committee. The Appropriations Committee can determine where it wants the spending to go, but it needs to be at last year's level.

Every State in our country right now is—they are not freezing their budgets, they are cutting their budgets. Yet here in Washington we have an appropriations bill in front of us that increases spending by 23 percent. This is outrageous. We need to show some fiscal discipline in this case, so I urge my colleagues to vote for this amendment.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, for the information of my colleagues, the funding levels contained in the bill are consistent with the budget resolution the Senate passed and agreed to this Spring. We are $1.2 billion below the level of funding requested by the President.

We worked very hard to balance the important safety, transportation and accounting needs of this Nation. We urge you to defeat this amendment.

Mr. BOND. Mr. President, I join with my colleague in urging a defeat of the amendment.

Mr. ENSIGN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 64, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—33

| | | |
|---|---|---|
| Barrasso | Enzi | Lugar |
| Bayh | Graham | McCain |
| Bunning | Grassley | McCaskill |
| Burr | Gregg | McConnell |
| Chambliss | Hatch | Risch |
| Coburn | Hutchison | Roberts |
| Corker | Inhofe | Sessions |
| Cornyn | Isakson | Snowe |
| Crapo | Johanns | Thune |
| DeMint | Kyl | Vitter |
| Ensign | LeMieux | Wicker |

NAYS—64

| | | |
|---|---|---|
| Akaka | Feingold | Murray |
| Alexander | Feinstein | Nelson (NE) |
| Baucus | Franken | Nelson (FL) |
| Begich | Gillibrand | Pryor |
| Bennet | Hagan | Reed |
| Bennett | Harkin | Reid |
| Bingaman | Inouye | Sanders |
| Bond | Johnson | Schumer |
| Boxer | Kaufman | Shaheen |
| Brown | Kerry | Shelby |
| Brownback | Klobuchar | Specter |
| Burris | Kohl | Stabenow |
| Cantwell | Landrieu | Tester |
| Cardin | Lautenberg | Udall (CO) |
| Carper | Leahy | Udall (NM) |
| Casey | Levin | Voinovich |
| Cochran | Lieberman | Warner |
| Collins | Lincoln | Webb |
| Conrad | Menendez | Whitehouse |
| Dodd | Merkley | Wyden |
| Dorgan | Mikulski | |
| Durbin | Murkowski | |

NOT VOTING—2

Byrd Rockefeller

The motion was rejected.

Ms. CANTWELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. CANTWELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I am concerned that we in this Congress are not properly attached to reality. I spent time in my State over the recess, and people talked to me repeatedly about their concerns about excessive government spending. It is a real national issue.

We know our national debt, the total debt is on track to double in 5 years and triple in 10. That is the public debt this country owes, and we have to pay interest on it to countries such as China and individuals all over the world. We pay a lot of interest every year. The interest is going to surge over the next 10 years under this proposal.

I feel as if we are not connected, we are not hearing it. We think it is business as usual, and it is not business as usual. States throughout our country, cities throughout our country are cutting spending, trimming budgets, finding more ways to be efficient, looking for ways to save money and be within their budgets. Most States have a balanced budget amendment, and they have to stay within their budget. We do not. We came within one vote several years ago passing out of the Senate a balanced budget amendment, but it failed. Now we are proceeding on a stunningly reckless course of spending.

I have always tried to support agriculture. It is a big thing in my State. But I could not vote for the last agriculture bill we had. There was a 14-percent increase in agriculture spending. We know the rule of 7—most people do. If you increase something at the rate of 7 percent a year, it will double in 10 years; at 14 percent, it will double in 5 years. So the entire agriculture bill of the United States is on track to double in 5 years at that rate, and that does not include the extra money that came out of the stimulus bill, which is significant. If you include that, it would amount to a 67-percent increase in agricultural funding. I just bring that up. This is a bill I care about.

The transportation and HUD bill that is before us today is worse. It has a 23-percent increase in spending which is on top of a 13-percent increase in spending in the bill last year. That does not include the stimulus package spending. At a 23-percent rate, spending on Housing and Urban Development, and Transportation would double in 3 to 4 years. If you include the stimulus package money which we passed in February it is a 165-percent increase in spending from fiscal year 2008 to fiscal year 2010. That is a stunning increase, at a time when we do not have the money, and the American people know it.

That is one of the complaints about health care. It is all part and parcel of a concern by the American people. What I understand them to say to me is: Have you guys lost your minds up there? Do you no longer feel a sense of responsibility? You are going to triple the national debt in 10 years? How can you justify that? We have vote after vote and they fail. We need to be containing spending.

We had an amendment that was offered to deal with a shortfall in transportation money. We have a problem. We have a real problem. People are using less gasoline, and the taxes for our highways primarily come from people paying a tax per gallon. If they use less gallons, we have less money coming into the basic highway fund.

I would like to see that number lifted. How can we do it? Senator VITTER proposed a very commonsense amendment. He said: Let's put up, I think it was $18 billion, out of the stimulus bill—most of which was promised for roads anyway, but they have not been fixed—he said take that money and fix the shortfall in the transportation bill. I voted for that. It failed because they preferred to fix the shortfall in transportation by borrowing more on top of the stimulus bill; every penny of it is borrowed. We don't have the money. We have to borrow it. We pay interest on it. Somebody has to pay that for the indefinite future because the 10-year budget the President has submitted to us has no hint it will contain spending. In fact, the deficits grow in the out years, which is why we have such a terrible problem.

Earlier today we had an amendment by Senator ENSIGN that said: Let's freeze spending. Let's show some restraint such as our States are doing, such as our families are doing. No. Just flat spending. You see, transportation and these other programs that are in this bill, they are getting stimulus money out of the $800 billion on top of that. So why do they need a baseline increase of 23 percent? Next year, we will be hearing: We are only going to do a 15-percent increase on the baseline and be proud of that.

I don't like the way we are doing this. I don't think we are listening to the American people. It is not the right thing to do.

I have a few charts I would like to share that bear repeating because I am not making up these numbers. These are numbers by the Congressional Budget Office. They are basically a nonpartisan group of fine folks who try to give us honest data on which we can make decisions. The chairman of it is selected by the Congress. Of course, the Congress is a Democratic majority, and they were able to select a Director. This is what they scored President Obama's budget. This is the public debt of the United States of America, much of it held by China and other countries around the world, individuals around the world. They buy our T-bills, and we pay them interest.

This chart is in trillions. In the entire history of our country up through 2008, we had accumulated a public debt of $5.8 trillion. A lot of people think that is too high. I think that is too high. We are carrying a big debt, and we do not need it to continue. Under the budget that is before us today, that we passed, it looks like we are spending at least on that level, if not more, based on the bills we see coming forward. Our spending will double the entire national debt in 5 years to $11.8 trillion, and in 10 years, according to the Congressional Budget Office, it will be $17.3 trillion.

That is a stunning figure. It should put chills through the backbones of everybody in this Congress. How can we justify this? States are trimming their budgets, and we had a 14-percent increase in agriculture, which we not long ago voted on, and now we have a 23-percent increase in HUD. This is not responsible.

We came into this year with a deficit. The President said we had to rush through a stimulus bill, and they passed it by just a couple of votes—$800 billion, every bit of it borrowed because we did not have the money. We were already in debt. If you spend more money when you are in debt, how do you get it? You borrow it. You have to get people to buy your Treasury bills. The interest rate on 10-year Treasury bills was over 2 percent in January. In July, they reached 3.6 percent or so because people are getting worried. They think we might have an inflationary spiral. They think interest rates may go up. So they are not so willing to loan money at a low interest rate for 10 years like they were at the beginning of the year. This causes a problem.

Let me show this chart, which I think brings the numbers home in a way we can comprehend them because it is difficult to comprehend numbers this big. People assume, when I throw these billion-dollar figures around, surely people up there know what they are doing, and, SESSIONS, you are just exaggerating. You don't like to spend money, and you are exaggerating.

It is not an exaggeration. I am talking about the entire debt of America tripling in 10 years.

Look at the interest. We spend approximately $100 billion now on highways. I said $40 billion, but I think with the stimulus and the spending from gas taxes, we spend about $100 billion on our highways. We spend about $100 billion on education. On September 30, 2009, the estimate is that we will pay $170 billion in interest. We get nothing for it. It is just like paying interest on your credit card. The bank gets it. You don't get it. They loaned you money. You owe them money—interest—to keep the money they loaned you.

As the debt increases and we have a modest adjustment in the interest rate—not a big adjustment but one the Congressional Budget Office projects will occur, a raising from the relatively low interest rates we have today—as those go up, the interest we will pay each year, the burden we pay first before we can buy anything with the taxpayers' money is increasing.

We see the numbers here. In 2019, 10 years from today, the Congressional Budget Office estimates the U.S. Government will be paying out $799 billion

a year in interest. We don't get anything for that. It goes out to people all over the world who bought our Treasury notes, and we send out this interest. We send it to some Americans who buy it. They get this interest. It is money we do not have to do things we want to do for our constituents. And, in essence, as a moral matter, we are reaching into the future and we are taking money from the future and spending it today to meet our desires today, without doing what our States and cities and counties are doing—figuring out how to get by with less in tough times and looking forward to the day they will be able to see growth again and be able to not have to be on such a spare budget. But that is life. We are not able to pass a law to reverse life and the challenges and difficulties and uncertainties we face every year in our personal lives and in our national lives and in our economic lives.

So that is the lower number. That is assuming things are going pretty well. Look at the interest rates that the blue chip forecast of economists, who are a good group of people—and they make forecasts that are pretty accurate. They have been more accurate than the government over the years. The Blue Chip Forecast says the interest rate is going to be more than CBO scores. They say the interest rate in the tenth year would be $865 billion. And interest rates could surge to the level of the 1980s, which would be 10 percent interest rates. If you had that kind of interest rate, we would spend $1.29 trillion on interest before we could do anything to purchase things for our constituents.

Remember, the highway money is about $100 billion; education is about $100 billion. We will be spending $800 billion on interest—$600 billion plus more than we spent this year, just on interest, because of irresponsible spending. So I would say, count me as somebody who is getting the message, both from my own study of what is occurring here, being on the Budget Committee, and from what I am hearing from my constituents. They say: It is time for you guys to get responsible. We are upset. And why shouldn't they be upset? Somebody comes to a town meeting and they are a little hot with their Congressman or their Senator. Are we supposed to think this is a threat to democracy, when we have this kind of behavior going on in the Congress? They ought to be hot. There is every reason to be hot. We do not need to be doing this.

You may say: Well, we are having a hard time economically, Senator. We have to spend a little money now to get this thing going. The outyear budget projection, according to the Congressional Budget Office, assumes robust growth. In 2012 and 2013 they are projecting over 4 percent growth. We may not have 4 percent growth. If we don't have 4 percent growth, we are going to have larger deficits than they are projecting. And in the outer years they are projecting a solid 2- or 3-percent growth out there. No recession in this. So this is not a projection based on the assumption of a recession putting us in this kind of debt.

How much do we spend each year? Well, it is about $3.5 trillion. That is how much a trillion dollars is. We have $1.8 trillion in debt this year. We will be short this year $1.8 trillion. We will spend $1.8 trillion more than we take in. That is $1,800 billion. And those are things that should cause us to think about what we are doing. We have done nothing like this before, I don't think, except maybe a life-and-death struggle in World War II, when people all over the country were drafted. I would note that 43 cents out of every dollar we are spending this year is borrowed. That is not acceptable.

We have heard from administration officials, from Alan Greenspan and other experts, that this whole budget picture is unsustainable. That is what they say. TV commentators, editorial writers say it is unsustainable, the debt cycle we are in. Let me ask this: What does unsustainable mean? It means just that. It cannot be allowed to continue.

I had somebody ask me recently in the airport: Well, when are you going to start paying it down? When are you going to start paying the debt down? The same way I have to do in my house with my credit cards, my mortgage. The answer is: There is no prospect of paying it down. Last year was the highest deficit we have had—$450 billion in 1 year. This year it will be $1,800 billion. In the next 10 years, according to CBO, the least deficit we will have—and they are projecting 2 or 3 years from now—is $600-plus billion. That is the lowest. Then it starts back up again, and in the tenth year it is over $1 trillion.

There is no prospect of a balanced budget anywhere out there, and we act as though it is business as usual. We can spend and spend—so 23 percent on this bill, 14 percent on that bill on top of the stimulus money we put in. What we should do is have at least level funding with the stimulus money piling into the economy—the $800 billion there.

In closing, I would say we are not getting it. We are not listening to the American people. We are not even reading our own budget numbers, and we are hurting our country. This $800 billion in interest every year? This will devastate our ability to fund the government. Not only that, it will require either more and more and more borrowing or more and more and more taxes, neither one of which is good for this economy. It is not good for America.

We do not have to do this. I don't mean to be partisan about it. Republicans' hands are not clean on this either. But the leadership in this Senate needs to understand these fundamental principles and needs to send some signals that they understand it and are prepared to do something about it. And that includes the President of the United States of America. He needs to understand what is happening to this country as a result of his budget and take some steps that will show in reality we are going to bring this ship back on course again.

You say: Well, you have this health care bill and that is what is driving it. The health care bill is not in there. This budget analysis was done before health care even came up. It will cost more, of course, and make these numbers look even bigger. So we have to grow up and be responsible. Our Republic is depending on us to lead and tell the truth, and the truth is we are on an unsustainable course. The truth is this administration and the leadership in this Senate and the House of Representatives has no plan to get us off this unsustainable course. The American people are the only ones, it looks like, who have sense enough to know what is occurring, and I hope they will continue to make their voices heard.

I thank the Chair, and I yield the floor.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

AMENDMENT NO. 2359, AS MODIFIED

Mr. VITTER. Mr. President, I ask that any pending amendment be set aside and that amendment No. 2359 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VITTER. Mr. President, I ask that the modified version of the amendment be made pending.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment (No. 2359) as modified.

The amendment is as follows:

(Purpose: To prohibit the use of funds for households that include convicted drug dealing or domestic violence offenders or members of violent gangs that occupy rebuilt public housing in New Orleans)

At the appropriate place, insert the following:

**SEC. ___. PROHIBITION ON USING FUNDS FOR CERTAIN HOUSEHOLDS.**

(a) IN GENERAL.—No funds made available under this Act may be used for or provided to a household that—

(1) includes a covered offender; and

(2) resides in federally-subsidized housing in New Orleans, Louisiana.

(b) DEFINITIONS.—In this section—

(1) the term ''covered offender'' means an individual that—

(A) has been convicted of an offense under Federal, State, or tribal law involved in manufacturing, distributing, or possessing

with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

(B) is a member of a criminal street gang, as defined in section 521 of title 18, United States Code;

(2) the term ''federally-subsidized housing'' means any housing for which housing assistance is being provided; and

(3) the term ''housing assistance'' means any assistance, loan, loan guarantee, housing, or other housing assistance provided under a housing-related program administered, in whole or in part, by the Secretary of Housing and Urban Development.

Mr. VITTER. This amendment is very straightforward, and it is very narrowly drawn. First of all, it only affects public housing assistance in New Orleans, LA, nowhere else, and it prohibits funds in this bill from going to any housing assistance to benefit drug dealers or members of violent gangs, folks who have actually been convicted of these offenses—drug dealing, not simple possession, drug dealing, a conviction of that—or convicted of crimes that involve a member of a violent gang.

After Hurricane Katrina, there was an enormous rebuilding effort in New Orleans that continues. Part of that effort involves public housing in New Orleans. Quite frankly, that system has been plagued for many years with tremendous problems, the biggest of which is crime in those projects. There has been an ongoing effort to rid those projects of violent crime. That effort continues and certainly that battle has not yet been won because, unfortunately, New Orleans continues to be a capital in the country for violent crime, with very high violent crime levels.

As we are rebuilding these projects using a fundamentally different model—a mixed-income model, less density—certainly one of the changes we need to make is to ensure that drug dealers and members of violent gangs do not set up shop once again in those public housing projects and do not get other taxpayer assistance.

In this bill is $7.25 billion for public housing assistance. Some of that will go to New Orleans. Certainly it is reasonable and productive and positive that we simply say we are not going to send this assistance to folks who have been convicted of being a violent gang member, have been convicted of drug dealing, not simple possession but drug dealing.

This is very important policy, very important for the continued recovery of New Orleans coming out of Hurricane Katrina. I urge my colleagues to accept this amendment and support this amendment and pass it into law.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. MURRAY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. I ask unanimous consent to speak as in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WTO RULING

Mrs. MURRAY. Mr. President, 2 weeks ago, the World Trade Organization handed down a ruling in one of our Nation's most important trade cases to date. The ruling was in a case that the U.S. Government, through our Trade Representative, brought against the European Union for providing market-distorting subsidies for the European aerospace company, Airbus. It was a case brought against the EU not because of minor trade infractions or insignificant manipulation of the international market. It was brought because of decades of playing outside the rules, billions in government subsidies, and repeated warnings by the United States to end the unfair practice of providing a damaging subsidy called launch aid. What the WTO ruled by all accounts is very clear. Launch aid is illegal. It creates an uneven playing field. It has harmed American workers and companies. It needs to end.

For me, this is an important decision that is long overdue. That is because in my home State, the State of much of our country's aerospace industry, the consequences of competing with the treasuries of large European governments has been very real for a very long time. It has been felt in communities, in local economies, and in lost jobs. That is why, as my colleagues know, I have been speaking out against Europe's market-distorting actions in commercial aerospace for many years. I have raised my concerns with other Senators, with foreign leaders, and administrations of both parties.

In 2005, I helped pass a unanimous resolution in the Senate on the need to level the playing field for fair global aerospace competition. In that same year, after the European Union mocked our efforts to negotiate in good faith by continuing to provide launch aid, I urged the Bush administration to move forward with this WTO case. Make no mistake about it, I understand the value of healthy competition in the international marketplace. But I also believe that competitors must abide by the same set of rules.

One reason I have fought so hard to end illegal subsidies is because I know there is a fundamental difference in how our country and Europe view the aerospace industry and fair competition. For us in America, commercial aerospace is seen as a private business. Some companies will win; some companies will lose. But we allow the marketplace to decide. American aerospace companies, such as Boeing, take tremendous financial risks when they develop and market a new aircraft. Their workers and developers and researchers put their jobs and billions of dollars on the line each time. They literally bet the company with each new plane they develop. But in Europe, aerospace is a jobs program. To fund that program, they use billions of dollars in what is called launch aid. So they are not quite as concerned when Airbus loses money. In fact, they don't even require Airbus to repay that launch aid, if the aircraft they develop is unsuccessful. It is no risk, all reward.

But as the WTO has now ruled, it is also a violation of international trade rules and fair competition. The plain truth is that these illegal subsidies have cost American jobs. The commercial aerospace industry employs well over half a million Americans with family-wage salaries. But in the past 20 years, as Airbus has continued to grow, thanks to billions in subsidies, we have lost hundreds of thousands of American aerospace jobs. These are scientific and technical jobs. They are jobs that keep the economies of communities large and small stable in States all throughout the country. They are jobs that support families to pay mortgages and create other jobs. They are jobs that are increasingly precious at a time when we are facing double-digit unemployment.

American innovation led to the birth of the aerospace industry over 100 years ago. Since that time, we have made air travel safer and brought growth and innovation to our economy. Although we led in the first century of flight, unless we recognize the damages these subsidies pose and fight for our workers, we might not have a major role in the next century in aerospace. That is why the WTO ruling is so important. This ruling is much more than a confirmation that Airbus has been breaking the rules. It is a victory for American workers who produce the world's best planes and who have been forced to fight an uphill battle. It is a warning to other countries considering entering the aerospace marketplace that launch aid is the wrong example to follow. It reaffirms the spirit of free and fair trade in the international marketplace and reminds us that we have to be vigilant because this is certainly not the end of this fight.

In fact, there are already signs that the EU and Airbus will flaunt the will of the WTO. Already, very publicly, the Governments of France, Germany, and the United Kingdom have said they will move forward with plans to provide Airbus with nearly $5 billion in launch aid for the development of Airbus's latest generation of airplane, the A350, despite any ruling by the WTO. In other words, in the face of a clear condemnation of their practices, they said they will do as they please. That is why, on Monday, I wrote to President Obama urging him and his administration to take the strongest possible actions to prevent European governments from providing Airbus with an additional illegal trade-distorting subsidy. But it will be all of our responsibilities to ensure that the rules are followed, American jobs are not further endangered, and the future of the aerospace industry is protected.

Unless we wake up to the threat that continued illegal subsidies pose, we will lose an industry we created that is critical to our economic recovery and will help sustain our Nation's continued growth.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, while we have an opportunity, there are some important comments I want to make about this bill.

We have heard from some people who are concerned about the deficit and the national debt. They are tremendous concerns. Any discussion of our overall economy must take into consideration the debt we are running up that will be on the backs of our children and our grandchildren. I have opposed many spending packages that have come through and many of the things that have gone on.

But when we are looking at priorities—which are funding ongoing programs which are within the budget of our committees—then we need to focus on spending that will prove beneficial for the American people and the economy.

The bill before us, the Transportation and Housing and Urban Development appropriations bill, funds infrastructure development for everything from roads, to bridges, to airports, which is critical to attracting businesses, creating jobs and economic growth in our communities.

The bill also provides funding to help the Nation's most vulnerable populations: the homeless, low-income families and seniors, housing for the disabled, and housing for our returning veterans who have served overseas.

This bill provides increased investment in the Federal Aviation Administration. The FAA gets money for 200 additional safety inspectors. I have spoken on this floor about the need for safety inspectors because we have airlines flying with very subpar qualifications, and too often they get away with sending out people who are not qualified, should not be pilots, have not been properly trained. For all of us who fly and all of our constituents, that is a major concern. But we need to accelerate programs as well related to reducing congestion and increasing safety. That means getting us to the next generation air traffic system.

Nobody will claim this is a perfect bill, but it is one that provides needed funds for programs that not only make a difference in the lives of everyday Americans but also enables job creation, economic growth, and the kind of treatment we wish to provide for those in need, especially in the housing area.

I have asked my colleagues, and will continue to ask them, to support this bill. There have also been attacks—and there will be some more before we get out of here—on earmarks. Every year we have a debate about whether Congress should have a role in setting priorities or simply pass the buck to those in the executive branch of government.

Within my State are State and local experts I turn to, as well as people whose lives are inextricably linked to housing, transportation, and economic development. Most of these people know a great deal about these issues. They know a lot more about these issues and how they affect the people of Missouri than most folks sitting in a bureaucracy in Washington, DC, who may never have been there, do not know what the challenges are, do not know where the local people are putting their priorities, do not know what their plans are, do not know how they see their communities grow, their State grow. I think a lot of these people know more about housing, transportation, and economic development than people at OMB and those who ultimately produce budget submissions from their distant Washington offices.

We have heard a lot of talk about bad earmarks. I am opposed to bad earmarks, and people who abuse the system, who do so criminally, should be punished and put in jail, as they have been. There is no debate there. The debate is not what is written about, but it is who should earmark because every dollar that is spent by the government is directed by somebody. Who is making the decisions?

Some argue it should be a mix where Congress earmarks roughly 2 percent of discretionary funds, with the balance, roughly 98 percent, being earmarked by agency employees of the executive branch. I think you could make a good argument that it should be even higher.

However, under this scenario, with full disclosure, elected officials have a role in listening to and speaking for the people of their State, the leaders of their communities, the leaders of the institutions. We can make those recommendations, and the full Congress can look at them and the President can ratify them. This is reflected in the bills before us this session.

Others argue Congress should have no role; executive branch officials, elected by no one, should have 100 percent monopoly power over spending. Their position is people unaccountable to the voters should have this monopoly power. Congress can, however, and does set criteria, but the more criteria we set, the more it becomes a congressional earmark. The less criteria we set, the more it remains an executive branch earmark.

In executive agencies, people have their own agendas and political leanings. Their own political bosses—in either the Bush administration or the Obama administration—have their own agenda. I do not like monopoly power of the Obama administration on spending and I did not support it during the Clinton or either Bush administration as well.

I have to admit I find it puzzling to hear some of my self-professed conservative friends suggesting that the way to reform spending is to turn it all over to the Obama administration to earmark. I am not arguing they should have no role. I am arguing today that Congress should have a role.

The Constitution, in article I, section 9, says very clearly that it gives the Congress the power of the purse. It states:

> No money shall be drawn from the Treasury but in consequence of Appropriations made by law.

Guess what. That is what we are supposed to do, as stated in article I, section 9. I think it would be extreme, probably excessive, to suggest that Congress should earmark all money, just as I believe it would be extreme and wrongheaded to suggest that the Obama administration should earmark all money.

A bad earmark is a bad earmark, no matter who does it. Frankly, when I left the governorship of my State, one of the reasons I believed it was important to run for the Senate was to be able to exercise the voice and the views of Missourians in the spending process because I had seen too many instances where bureaucrats in Washington made very bad decisions.

They made bad decisions that absolutely turned the priorities around. They told us we had to spend all of our money for cleaning up wastewater, putting tertiary treatment on major metropolitan sewer systems, which would then have to put cleaner water into the Missouri and Mississippi Rivers than was already there.

The State's priority was to clean up many of the pristine streams in our State which had, in too many instances, raw sewage flowing into them—streams which were vital parts of our scenic rivers, our scenic waterways, places for hunters and fishermen, where people would like to swim and boat but could not.

But we have seen even more instances of bad earmarks. I thought it was a horrible Pentagon earmark to award an Air Force tanker project worth billions of dollars to a European company—a process which, under pressure, has since been subjected to review and will cost thousands of Missouri jobs if undertaken.

Fundamentally, I see this as a role of Congress and one that should be transparent, self-limiting, and subject to scrutiny. We get that scrutiny. I accept it. I am happy to argue with anybody who disagrees with my views, but at least we do so out in the open. When earmarks are made in the executive branch, nobody knows who did them. If you don't like a decision, you don't even know whom to yell at because it is somebody who is not appointed, not accountable, not obvious to the people we are supposed to serve.

A lot of people criticize me for putting out statements, news releases, when I get some funds for the State, which is another way of saying I was too transparent. I use this process to help empower local people who have local ideas on how best to improve their local communities after having set their own local priorities.

If a Senator doesn't want to request an earmark, that is fine. Some people request earmarks and then vote to strip them out. I think that is a little bit self-contradictory, but I will leave that to the Senators who choose to request them and then move to strike them. If a Senator thinks it is inappropriate or does not trust himself or his local leaders to establish priorities and petition Congress for funding, that is his or her business. But I do trust local officials who answer to their voters and neighbors, as I do, who invest their money and the tax money at the local level, and who understand their own conditions better than anyone else, over the geniuses at OMB who may or may not have had the privilege of traveling to Missouri, to Washington State, to Pennsylvania, to Minnesota, to wherever the Senator comes from.

In short, someone earmarks discretionary money, and I am glad that a small fraction of that earmarking is reserved for those who can be questioned and disparaged and voted out of office if people disagree. I disagree that earmarking and making all spending decisions should be a responsibility exclusive to the typically anonymous executive branch people.

I ask my colleagues to ensure that bureaucrats and politicians in the executive branch are not the sole source of power when it comes to setting spending priorities. In this case, local citizens outside of Washington who live with the project purposes and who are not agency officials should have a stronger voice in setting local priorities, not a weaker voice.

I urge my colleagues to support this bill and to oppose efforts to take away from Congress not only our constitutional power and authority over the purse but what I view as a high responsibility of someone who holds an office and carries out the duties of a U.S. Senator.

Mr. President, I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Chair recognizes the Senator from Pennsylvania.

AMENDMENT NO. 2410

Mr. CASEY. Mr. President, I rise today in opposition to an amendment proposed by my colleague from South Carolina. The amendment is No. 2410. I believe this amendment sets a dangerous precedent for a number of reasons.

First of all, it singles out one airport, which happens to be an airport in southwestern Pennsylvania, in Cambria County on the southwestern corner of our State.

It is important to note about this particular debate on this amendment that none of the funds in the underlying bill we are talking about here provide for direct funding to this airport. In my view, the decision as to whether this particular airport should receive funding should be left to the Federal Aviation Administration.

The Senator from South Carolina noted that the airport received funding under the America Recovery and Reinvestment Act, known as the stimulus bill. Let me read something from the spokesperson from the U.S. Department of Transportation. This spokesperson said: ''The bottom line is it,'' meaning this airport, ''deserved the money based on the merits.'' ''It,'' meaning the funding under the recovery bill, ''is not an earmark.''

The Essential Air Service Program, which as many here know was created by Congress in 1978 to help small airports—we have a lot of them in Pennsylvania, and we need them—to survive after airline deregulation. That is the primary source of Federal funding for the airport in this case, not an earmark, not a congressional earmark.

According to Congressional Quarterly, more than 150 airports across the country qualify for this assistance and many of the 150 airports have a higher per-passenger subsidy with lower passenger loads than the airport we are talking about here, the Johnstown Airport.

Let me say in conclusion, the city of Johnstown, as well as the wider Cambria County region but especially this county—and so many places have been hit hard in this recession, but historically this particular community has been hit very hard. In the 14 labor regions of our State where they measure unemployment, very often the Johnstown labor market has the highest in the State. If it is not the highest unemployment, it is often in the top three. This is a community that has suffered tremendously over many decades with job loss.

When we consider what happens when people go to an airport, sometimes it is not just civilians. A lot of military personnel leave from an airport such as this. Johnstown, PA, including Cambria County, PA, has transported on a per capita basis as many or more soldiers in Iraq, for example, than almost anyplace in the country.

So this is a community that has contributed mightily to the success of this country under adverse economic circumstances. The least we should do is not target this community and target this airport in the midst of a debate on such a significant Transportation appropriations bill.

So we are grateful for this opportunity.

I yield the floor.

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition to speak on the pending amendment relating to the Mount Washington Community Development Corporation. There has been an effort to delete an appropriation of $200,000 to help the Mount Washington Community Development Corporation clean up and remove hazardous waste and prepare the site for future development.

In phase I, there will be a cleanup of asbestos and hazardous waste, with a total cost of $1.2 million. On phase II, there will be construction for a total cost of $90 million to $100 million.

The project is a brownfield redevelopment site preparation for the future construction of One Grandview Avenue in the city of Pittsburgh.

The site currently includes a blighted structure in a state of total disrepair. The dilapidated building has been vacant since 1979 and was recently condemned by the city of Pittsburgh.

Historically, this property has been the hub of illegal activities and has been a public safety hazard for the city. Since 1989, there have been over 30 documented incidents of assault, vandalism, and theft at the location.

The residents of the area have signed a petition in favor of the Grandview apartment development, which cites the chaotic history of this particular locale. Three hundred people have signed on urging that the development take place, and the petition reads in part:

> Since the summer of 2008, the developer and his representatives have attended countless meetings with the MWCDC [the development project].

It goes on to recite the details of what is needed there. What the $200,000 will be designed for is, arguably, a responsibility of the Federal Government for failure to take steps to avoid that kind of contamination or, once the contamination occurs, to make remedial action to improve it. The total cost is going to be in the neighborhood of $1.2 million. The Federal contribution, which we are asking for on this earmark, is, I submit, a very modest matter and a good reason for the Federal Government to undertake greater responsibility than $200,000.

In addition to the citizens, the request has been made by the mayor of the city of Pittsburgh. I ask unanimous consent that the petition from his chief of staff be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PETITION IN SUPPORT OF THE ONE GRANDVIEW AVENUE DEVELOPMENT

We the undersigned hereby support the development at One Grandview Avenue (the location of the former Edge restaurant) proposed by Mr. Steve Beemsterboer.

Since the summer of 2008, the developer and his representatives have attended countless meetings with the MWCDC and individual residents concerned about implications of this development. Mr. Beemsterboer

has had many private meetings with residents who have had the most concerns about this project, and countless times, the developer has responded to concerns of size and scale, storm water runoff, height, traffic flow and property values. The developer has gone out of his way to listen to concerns and make changes to his plans to accomodate a few residents. As an example, the size and scope of the proposed development has changed three (3) times due to the concerns of a few residents.

The former Edge restaurant has been vacant for three (3) decades. It has sat condemned by the city of Pittsburgh for over one (1) year. Historically, the property has been a hub for illegal activity and has been a public safety hazard for the City of Pittsburgh for 30 years. Since 1989, there have been over 30 documented incidents of assault, vadalism and theft at the location, not to mention countless accounts of suspicious and illegal activities like drug deals and prostitition.

There have been many development plans for the former Edge restaurant over the years, but resident resistance has been strong. In fact, so strong, the community put an end to plans for a Ritz Carlton. That was several years ago, and things are different today.

There will be hundreds of City residents upset and outraged if the developer meets all of the city's code and legal requirements and somehow cannot get this project moving forward. Our City leaders have an obligation to support the neighborhoods that are asking for assistance and who are collectively behind a development such as this one. The community asks for your support and assurance that this project will not be derailed due to a few people with personal agendas.

Again, we the undersigned wholeheartedly support the development proposed at One Grandview Avenue and expect to see progress at the location.

Mr. SPECTER. Mr. President, this has also been supported by Senator CASEY, Congressman MIKE DOYLE, in whose district it is, and by Allegheny County Executive Dan Onorato, the county council, the Mount Washington community, and by two representatives of the Pennsylvania General Assembly, Senator Wayne Fontana and Representative Chelsa Wagner.

It is hard to envisage a more appropriate use of $200,000 than is present here. It is a clear-cut matter of looking to the Federal Government to fulfill its responsibility to an area that has become blighted, a waste site that should have been cleaned up a long time ago under Federal law.

AMENDMENT NO. 2410

Mr. President, in addition to the considerations on the Mount Washington Community Development Corporation, I am opposed to the amendment No. 2410, which would prohibit the use of funds for the John Murtha Johnstown-Cambria County Airport.

A similar amendment was defeated in the House of Representatives by a decisive vote of 263 to 154. This airport supports 45,000 takeoffs and landings per year.

The Cambria County Airport receives Federal funding from the Essential Air Service, a program run by the Department of Transportation on a formula basis to rural regions. The recently passed stimulus also provides funding but on a purely competitive basis.

The Johnstown Airport is one of many airports across the United States that receive Essential Air Service annual funding. The current subsidy is $1.4 million or just over $100 per passenger. There are 152 similar regional airports around the country, including a number in my State, in Altoona, Bradford, Dubois, Lancaster, and Oil City. Johnstown Airport ranks only 40th in the per-passenger subsidies.

The majority of the $150 million that critics cite was funded for military purposes.

There are over 1,000 Guard and Reserve troops stationed at the airport, and they use these facilities daily. These troops have been involved in over 19 overseas deployments in the last 5 years alone to Iraq, Afghanistan, and other areas around the world. The upgrades funded in previous years were essential to keep these troops in a proper state of readiness to sustain such a high rate of deployment.

National Guard LTC Christopher Cleaver had this to say:

The airport is a vital part of the Guard's strategic deployment plans. In today's climate of warfare, it's extremely prudent to be able to move fast.

We have a commitment to mobilize in 96 hours. It's a great advantage to have a runway at your doorstep to quickly move to anywhere in the world.

On this basis, I think the appropriation is entirely warranted.

AMENDMENT NO. 2366

Mr. President, I have sought recognition to discuss my vote against an amendment offered to the fiscal year 2010 Transportation and Housing and Urban Development Appropriations bill. the amendment, offered by Senator ROGER WICKER, would cut off funding for Amtrak unless it amends its current policy and allows passengers to transport firearms by March 31, 2010. It is my understanding that Amtrak implemented the firearm ban in 2004 after it conducted a review and evaluation of security measures following the attacks on passenger trains in Madrid on April 11, 2004.

Though Amtrak ought to have authority to set policy that is in its best interest, I am reluctant to support a policy that prohibits law abiding citizens from carrying permitted firearms. This policy was the subject of a similar amendment that Senator WICKER introduced on April 2, 2009, to the fiscal year 2010 budget resolution. The budget resolution established a reserve fund for multimodal transportation projects and Senator WICKER's amendment to the budget disqualified Amtrak from accessing this proposed reserve fund if it did not allow passengers to transport firearms. I supported that amendment and it passed 63–35. However, the passage of that amendment did not jeopardize Amtrak's regular annual appropriation.

On the other hand, Senator WICKER's amendment on September 16, 2009, to the Appropriations bill may ultimately result in a complete cutoff of Federal funding for Amtrak. The legislation we are considering includes $1.574 billion for Amtrak and this funding is critical to maintaining our national passenger rail system. Amtrak provides a vital service for the entire Nation and I have consistently advocated for robust Federal funding to support its operations. Cutting off Federal funding would cause passenger rail operations to cease and deprive millions of Americans from an important mode of transportation. I am not willing to risk stranding Amtrak users in order to compel Amtrak to amend its firearm policy.

We ought to consider Amtrak's firearm policy independently from the appropriations process. Should Congress decide to mandate a revision to this policy, Amtrak ought to be given sufficient time to ensure it has proper personnel and infrastructure in place without the threat of funding cuts for not meeting an unrealistic implementation deadline.

Mr. President, I also wish to describe an amendment I have introduced to the fiscal year 2010 Transportation, Housing and Urban Development, and Related Agencies Appropriations bill. This amendment preserves funding which has already been secured for a critical project in Pennsylvania.

The corridor along U.S. route 422 in southeastern Pennsylvania has experienced rapid population growth over the past decade including many daily commuters to Philadelphia. This population expansion has led to significant congestion along route 422 in Montgomery and Berks Counties. Transportation officials and community leaders in the area have for years worked diligently developing proposals to mitigate the congestion and expand mobility options for residents living along the corridor.

The community has made considerable progress in this effort over the past 2 years, including completion in 2008 of a study to consider the feasibility of extending an existing rail line and commencement in 2009 of a study to explore long-term financing options for a commuter rail system and maintenance of route 422. Additionally, on August 24, 2009, Transportation Secretary Ray LaHood joined me for a roundtable meeting with local public officials and transportation leaders to discuss the problem and these recent developments.

The amendment I have introduced would simply preserve funding that was included in appropriation bills from previous years to support the local effort in this important undertaking.

I urge my colleagues to support this amendment.

Mrs. MURRAY. Mr. President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NOS. 2402, AS MODIFIED, NO. 2405, AS MODIFIED, AND NO. 2415

Mrs. MURRAY. Mr. President, we have managers' amendments at the desk—amendment No. 2402, as modified; 2405, as modified; and 2415. I ask unanimous consent that the amendments be considered and agreed to en bloc, and the motions to reconsider be considered laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 2402, AS MODIFIED

(Purpose: To provide that amounts in the bill provided for the Transportation Planning, Research and Development program shall be used for the development, coordination, and analysis of data collection procedures and national performance measures)

At the appropriate place, insert the following:

SEC. _____. Such amounts as are required from amounts provided in this Act to the Office of the Secretary of Transportation for the Transportation Planning, Research and Development program may be used for the development, coordination, and analysis of data collection procedures and national performance measures.

AMENDMENT NO. 2405, AS MODIFIED

(Purpose: To provide the Secretary of Housing and Urban Development the authority to use previously appropriated funds to prevent the termination of housing assistance to eligible families)

At the appropriate place, insert the following:

SEC. ____. The first numbered paragraph under the heading ''Tenant-Based Rental Assistance'' in the Department of Housing and Urban Development Appropriations Act, 2009 (Public Law 111–8) is amended by adding the following before the period at the end:

'': *Provided further*, That up to $200,000,000 from the $4,000,000,000 which are available on October 1, 2009 may be available to adjust allocations for public housing agencies to prevent termination of assistance to families''.

AMENDMENT NO. 2415

(Purpose: To provide technical and financial assistance to Illinois transportation officials to conduct a feasibility study for consolidated freight and passenger rail through Springfield, Illinois)

On page 215, between lines 2 and 3, insert the following:

SEC. 156. The Administrator of the Federal Railroad Administration, in cooperation with the Illinois Department of Transportation (IDOT), may provide technical and financial assistance to IDOT and local and county officials to study the feasibility of 10th Street, or other alternatives, in Springfield, Illinois, as a route for consolidated freight and passenger rail operations within the city of Springfield.

The PRESIDING OFFICER. The Senator from Arizona.

MOTION TO RECOMMIT WITH AMENDMENT NO. 2421

Mr. KYL. Mr. President, I ask unanimous consent to lay aside the pending amendment for the purpose of sending a motion to recommit with instructions to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. Kyl] moves to recommit the act H.R. 3288 to the Committee on Appropriations with instructions to report the same back to the Senate forthwith with the following amendment No. 2421.

The amendment is as follows:

(1) Any amounts that are unobligated amounts for fiscal year 2010 for the American Recovery and Reinvestment Act that are available in a non-highway account receiving funds in this Act for fiscal year 2010 are rescinded.

Mr. KYL. Mr. President, I will take just a moment to explain what this motion is. It is very simple. Incidentally, I wish to say at the outset that because of the way it reads, as the clerk read, ''forthwith,'' there is no intention in this motion to delay the bill whatsoever. It requires the committee to report back forthwith.

Although I believe the discretionary spending increase in this bill, which is 23 percent above last year's level, excluding the stimulus bill, is far too high, my motion does not touch spending in this appropriations bill.

Let me repeat that. This amendment does not change in any way the spending in this appropriations bill. My motion simply instructs that the bill be sent back to the Appropriations Committee so it can be amended and sent back here forthwith to provide for rescissions of any amounts that are unobligated for the fiscal year 2010 in the stimulus bill that are available in nonhighway spending accounts. In other words, whatever has not been obligated under the stimulus and relates to the spending in this appropriations bill that is duplicative of that spending and does not relate to highway spending would be rescinded.

Why is it necessary? The stimulus, I do not believe, has provided what was promised—namely, jobs. A report at the end of August issued by the President's Chief Economist, Christina Romer, found that only $151.4 billion of the original $787 billion had been spent. The real total cost of the stimulus is over $1.1 trillion when you include interest.

That is a mere 19.2 percent—less than a quarter of the total package. In other words, the majority of this funding will be spent over the next several years, by which time the recession, hopefully, will be long over.

The administration claimed this spending would halt the unemployment level at 8 percent. Seven months after we passed the stimulus, unemployment levels are now at 9.7 percent and growing. We have lost over 2 million jobs.

I know the administration likes to say the stimulus has saved or created 1 million jobs, but most people recognize there is no way to measure saved jobs. In fact, Christina Romer stated recently:

You know, it's very hard to say exactly what the jobs effect is because you don't know what the baseline is.

My point is this: This discussion of the wasteful and nonjob-producing stimulus is important to this bill because our Nation is about to hit its debt ceiling of $12.1 trillion in October. This Congress will have to, again, raise the debt limit after having done so through the so-called stimulus. The public debt level is currently at $11.8 trillion.

This motion will lead to more than $11.6 billion in savings, which is less than 1 percent of our Nation's debt level. But we need to start somewhere, sometime.

I urge my colleagues to support this amendment which, to reiterate, does not take one dime out of this appropriations bill. It simply says the committee should go back and rescind from the stimulus bill any funding in the stimulus bill that is duplicated in this transportation and housing bill as long as the money has not yet been obligated and does not relate to highway spending. We would save about $11 billion. That is a good thing to do.

I urge my colleagues to support this motion when we are able to call it up and vote on it.

Mr. BURRIS. Mr. President, today, this Senate will act on a sweeping Transportation appropriations bill. My colleagues have spoken about this measure as an important part of the Federal budget for 2010. And they are right. This is sound fiscal policy that represents an investment in transportation and infrastructure. But we are also talking about much more than Federal spending over the next year. With this legislation, we are plotting a course for America's future. We are investing in public transportation projects and laying the groundwork for high-speed rail. We are developing renewable energy sources such as biodiesel and ethanol, which will allow us to keep efficient cars and trucks on America's roads. All of these efforts will help us achieve energy independence and protect the environment. So this bill has implications far beyond the next fiscal year. It is the beginning of a major step toward our new renewable energy paradigm. Let's talk about what that means for America.

As a Chicagoan, I am fortunate to live in a city with a world-class public transportation system. Millions of people ride the CTA trains and buses every year. This reduces traffic on the streets, cuts greenhouse gas emissions, and saves money. Unfortunately, it also places a strain on the existing infrastructure. That is why we need to increase our support for the CTA and other public transportation systems across the country. We need to help the CTA and similar agencies expand service, refurbish aging infrastructure, and continue to operate safely. This will make our cities more accessible for everyone. It will help usher all urban centers into a new era of prosperity.

But we should not stop there. It is time to renew our focus on transportation between cities and towns. As just about anyone can tell you, America's highways are heavily congested. Additional roads would be expensive to build, and they wouldn't make it any easier to get around. We need a solution that is both affordable and energy

efficient. For me, this means only one thing: high-speed rail.

I am proud to be a member of the Midwest High Speed Rail Association. And I believe it is time to weave this country together, from coast to coast, with a new network of clean, safe high-speed trains. This will create thousands of jobs, serving as a boon to the national economy. It will also save money. Laying track is four times cheaper than building highways, and railroads can transport up to five times as many people. There is no question that high-speed rail will increase the ease and affordability of travel between States. This will bring fresh opportunity to every community, large or small, that touches the new rail lines.

Mr. President, 140 years ago, the great American railway first connected the east coast to the west coast. Rail travel helped give definition to this country. It is an integral part of America's past. And it will be just as important to America's future.

This Transportation bill funds important projects and initiatives like these, all across the country. But it is about more than public transportation. It also helps to lay the groundwork for a renewable energy paradigm. It is a blueprint to create jobs, protect the environment, and save money.

If we pass this legislation, it will be a significant step in the right direction. And if we build upon this progress in the years to come, we can secure a brighter future for ourselves and for our children, because it's not just a matter of dollars and cents, and it's not just about jobs or the environment. It is about all of that, and it is about national security. It is about reducing our dependence on foreign oil. It is about renewable energy, safer modes of transportation, and an electric grid that is more secure and more efficient. This Transportation bill is a piece of that puzzle. It is a great start. So I urge my colleagues to join with me in supporting this measure. Let's invest in America's future once again.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I ask unanimous consent that except for the amendments provided for in this agreement, no further amendments be in order to H.R. 3288; that the following be the only first-degree amendments and motion to recommit remaining in order to H.R. 3288; that second-degree amendments which are relevant to the first-degree to which offered be in order but not prior to a vote in relation to the first-degree amendment; that the listed Kyl motion to recommit be the only motion to recommit in order, except motions to reconsider votes or motions to waive applicable budget points of order; that a managers' amendment that has been cleared by the managers and the leaders also be in order, and that if the amendment is offered, then it be considered and agreed to and the motion to reconsider be considered made and laid upon the table; Landrieu amendment No. 2365, which is pending; Vitter amendment No. 2359, pending and as modified; DeMint amendment No. 2410, pending; McCain amendment No. 2403, pending, as modified; Kyl motion to recommit with instructions, pending; that upon disposition of the amendments and the motion to recommit, the substitute amendment, as amended, if amended, be agreed to and the motion to reconsider be considered made and laid upon the table; that the bill, as amended, be read a third time and the Senate then proceed to vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the subcommittee and Senators INOUYE and COCHRAN be appointed as conferees; further, that if a point of order is raised against the substitute amendment, it be in order for another substitute amendment to be offered, minus the offending provisions but including any amendments which had been agreed to prior to the point of order; that no further amendments be in order; that the new substitute amendment, as amended, if amended, be agreed to and the motion to reconsider be considered made and laid upon the table; that the remaining provisions beyond adoption of the substitute amendment remain in effect; that on Thursday, September 17, following a period of morning business, the Senate then resume consideration of H.R. 3288 and proceed to vote in relation to the amendments and motion as specified above, with 2 minutes of debate equally divided and controlled prior to each vote, and that after the first vote in a sequence, the remaining votes be limited to 10 minutes each; further, that the cloture motion be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, with that, I would like all Members to know that what we have just agreed to is the final amendments of this bill. If any Senator would like to speak on any of them, they are welcome to come to the floor to do so this evening. But with this agreement, all those amendments will be voted on tomorrow morning, as will be announced at the end of the session today.

Mr. President, just to let all Senators know, with this agreement, there will be no further rollcall votes tonight.

## MORNING BUSINESS

Mrs. MURRAY. Mr. President, if there are no other Senators who wish to speak on that—I know a number of Senators are waiting to speak in morning business—I ask unanimous consent that the Senate proceed to morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Connecticut.

## AFGHANISTAN

Mr. LIEBERMAN. Mr. President, I rise—and soon will be joined by Senate colleagues, Senators MCCAIN and GRAHAM—to speak about the war in Afghanistan.

For the first time since 9/11, a national debate is underway about the future of our fight in Afghanistan. This is appropriate. Whenever our Nation sends our brave men and women in uniform into harm's way, it is both natural and necessary that we should have a vigorous national conversation about why we are doing so, whether it is necessary for our national security, and what the right strategy is to achieve our objectives. The truth is, we have not had such a debate since the decision was made unanimously to go into Afghanistan after 9/11 to overthrow the Taliban, which had given safe haven to al-Qaida, which planned and trained for the attacks on us in Afghanistan.

The most direct answer to the question of why we are fighting in Afghanistan and why we must succeed there is exactly that: Afghanistan is where the attacks of 9/11 originated, where al-Qaida made its sanctuary under the Taliban, and where the same Taliban is on the offensive today in Afghanistan and has seized the initiative with the clear aim of gaining control of all of Afghanistan, or major parts of it, and once again providing sanctuary for al-Qaida. It remains self-evident to be a clear and vital national interest of the United States to prevent this from happening. It is also because, although Afghanistan may seem geographically remote, we found out on September 11, 2001, in this modern technological world where great spaces are passed over quickly, that it is not remote when it comes to the safety and security of the American people, and Afghanistan is in the heart of a region in which we have critical national interests.

The fact is, Afghanistan and Pakistan are today at the epicenter of global Islamist extremism and terrorism, with which we are at war. This is the test of our age so far as our security is concerned.

Mr. MCCAIN. Mr. President, will the Senator yield for a question?

Mr. LIEBERMAN. I will be glad to yield.

Mr. MCCAIN. Is it true that yesterday, when we had the hearing with Admiral Mullen for renomination as Chairman of the Joint Chiefs of Staff, and who I think we would all agree has done an outstanding job of serving our

country, it was pretty clear that Admiral Mullen felt a sense of urgency for us to act in Afghanistan because al-Qaida and the Taliban—especially the Taliban—are making inroads and we, in his words, are not seeing the progress we want, that we are losing, basically, in Afghanistan?

Didn't he say to you and to Senator GRAHAM such that the important thing is that time is not on our side and we need to get troops over there as quickly as possible, in keeping with the strategy that was devised in March of this year and agreed to by the President? That was my understanding.

And Senator GRAHAM said: OK, now as to the civilians, I just got back from a visit. I appreciate all our civilians who are over there from different agencies. They are very brave, but, quite honestly, they can't go anywhere.

Admiral Mullen said: Right.

Senator GRAHAM said: You could send 10,000 lawyers from the State Department to deal with rural law programs, but they are sitting on the base because if they leave the base, they are going to get shot.

Admiral Mullen:

Right.

Then Graham said:

The only way to get off the base is if they have a military convoy, is that right?

Mullen said:

Right.

Senator GRAHAM said:

So I just want our colleagues to know the security environment in Afghanistan, from my point of view, will prevent any civilian success until we change the security environment. How long would it take to train enough Afghan troops to change the momentum, in your view, if we did it just with Afghan forces?

And he said:

Two or three years.

Then Senator GRAHAM said:

What will happen in that two or three year period in terms of the security environment while we are training.

Mullen said:

If it's just training?

GRAHAM said:

Yes.

Mullen said:

I think the security environment will continue to deteriorate.

I ask my friend, doesn't that lend urgency, which is certainly not apparent in the President's statement today? After meeting with the Canadian Prime Minister, basically saying he is going to go through a long process of evaluation and another strategy, claiming he didn't have one before. That is what is disturbing, is the total lack of urgency in the President's statement today.

Mr. LIEBERMAN. Mr. President, I say to my friend from Arizona, I was surprised and puzzled by that statement of the President today, particularly because the President, I think, has been very strong about Afghanistan. He has called Afghanistan a war of necessity—for the reason that I said, because we cannot allow al-Qaida and the Taliban to come back into control. Forgive the analogy, but anymore than after World War II if the Nazis had somehow reassembled and attempted to retake control of part or all of Germany, we would have sat back? We simply cannot let that happen.

We also know if Afghanistan falls, if we accept defeat or for some reason retreat from Afghanistan, it will profoundly destabilize neighboring nuclear Pakistan and encourage the Islamist extremists throughout that region and the world.

My friend from Arizona is right. There is a sense of urgency that he and our colleague and friend from South Carolina, Senator GRAHAM, who is on the floor, saw when we visited with General McChrystal and Admiral Eikberry and the Afghan national security leadership a month ago. Admiral Mullen yesterday said we have lost the initiative in Afghanistan. It is why President Obama deployed the additional 21,000 troops in March and announced this new strategy.

Mr. MCCAIN. Will the Senator yield for one more question quickly?

Mr. LIEBERMAN. I will be glad to.

Mr. MCCAIN. Isn't it true this is where the contradiction is? It is so paradoxical it is hard for me to comprehend. Admiral Mullen—in a question I said:

Admiral Mullen, didn't you say ''time is not on your side''?

Admiral Mullen:

No, sir, I have a sense of urgency about this. I worry a great deal that the clock is moving very rapidly and there are lots of clocks, as you know. But the sense of urgency—and I, believe me, share that with General McChrystal who, while he is very focused on the change which includes partner—focus on the Afghan people, he is alarmed by the insurgency; he is in a position where he needs to retake the initiative from the insurgents who have grabbed over the last 3 years.

Then to contrast that with the President's statement today he said:

I am absolutely clear, you have to get the strategy right and then make determinations about resources. You don't make determinations about resources—certainly you don't make determinations about sending young men and women into battle without having absolute clarity about what the strategy is going to be.

He said:

My determination is to get this right and that means broad consultation not only inside the U.S. government but also our ISAP partners and our NATO allies, and I am going to take a very deliberate process in making these decisions.

I don't know what to make of that.

Mr. LIEBERMAN. I think the statement by our top uniformed military officer, ADM Mike Mullen, Chairman of the Joint Chiefs of Staff, reflects what General McChrystal and everybody on the ground in Afghanistan has said, this is an urgent matter. The President recognized that when he sent the 21,000 additional troops.

Most everybody in this Chamber and in the House will accept the fact that it would have a devastating effect on America's national security and the security of the world if we lost Afghanistan. But then comes the question—incidentally, President Obama himself said this in a statement he made a while ago. He said we cannot muddle through in Afghanistan. It requires a decisive commitment to achieve victory.

We learned that in Iraq. Counterinsurgency, such as we are involved in in Afghanistan, is manpower intensive.

That is the question the administration and we here in Congress have. If you agree it is in the vital national security interests of the United States to succeed in Afghanistan, then you have to decide how we can best do that. To me the answer is clear. We need more troops there, American troops, while the Afghans are being trained to take over themselves. They cannot just be trainers. As Admiral Mullen made clear yesterday, they need to be combat troops. They need to be combat troops because, without the security that the American combat troops can singularly and uniquely provide in the short term, there cannot even be training of the Afghans. There certainly cannot be governance as we know it and there cannot be a prospect for economic development.

We need to make this decision soon. Weather has an effect.

Mr. GRAHAM. Will the Senator yield for a question?

Mr. LIEBERMAN. I will yield to my friend from South Carolina.

Mr. GRAHAM. As I understood the situation, in the last couple of months casualties among American forces are at an all-time high since the invasion. Do you agree with that, I ask the Senator?

Mr. LIEBERMAN. That unfortunately is true.

Mr. GRAHAM. It is also my understanding that IED attacks by the enemy have gone up about 1,000 percent and in reaction to that, Secretary Gates has sent 3,000 people over to deal with the IED problem. From my understanding of the testimony yesterday, Admiral Mullen said the force structure we have in place, between the combination of coalition forces and Afghan forces, is not enough to reverse the trends and to regain lost momentum. I thought it was pretty clear that he was telling us something has to change beyond training the Afghan Army.

Would you agree that the longer we leave people in that environment, where the momentum is on the enemy's side, we are doing a great disservice to the 68,000 people who are there? And if you are going to send troops, send them while it matters, send them in enough number to save lives and get the job over sooner rather than later? That is what I think all three of us are saying.

Mr. President, we appreciate your commitment in Afghanistan. Sending troops to get the election conducted

was a wise move. Understanding that Afghanistan is the central battle in the overall war on terror now is a deep understanding on the President's part. The only thing we are saying, the three of us and I think others, is that our military commanders have told us we have lost momentum and the only way to get it back in the short term is more combat power, and every day that we wait makes it much harder for those who are in theatre, and they are dying at levels and being injured at levels we have not known before. That is what drives our thinking. Would you agree with that?

Mr. LIEBERMAN. I am totally in agreement with my friend from South Carolina. This in fact is the lesson we should have learned and I think did learn in Iraq. When did the number of American casualties in Iraq begin to go down? It was when we sent more American troops there. Because the addition of American troops, and a new strategy—not just the numbers but a new strategy, a strategy quite similar to the new strategy we have in Afghanistan—protects the civilian population, gives them the confidence that we are not leaving. When you do that, something significant happens. It happened in Iraq and it will happen in Afghanistan. When we commit more troops, the people in the country decide we are not going to cut and run.

The Afghan people despise the Taliban. The progress the Taliban is making in controlling more land in Afghanistan is totally the result of violence and intimidation. The Afghan people, however, are watching us and wondering are we going to begin to pull back? Should they hedge their bets? Should they be careful not to join the fight against the Taliban?

If we begin to sound an uncertain trumpet—you remember that phrase from Scriptures: ''If the sound of the trumpet is uncertain, who will follow into battle?'' I will tell you one group that will not follow into battle if America begins to sound an uncertain trumpet in Afghanistan is the people of Afghanistan. We have a desire now that most everybody here shares. Let's break some of the Taliban away, the ones who are not zealots, the ones who, in a sense are foot soldiers, followers. They are the comparable group to the Sons of Iraq in Anbar Province. But when did the Sons of Iraq decide they were going to turn against al-Qaida? When we convinced them we were going to stay in Anbar and protect them.

In fact, how did we convince them? By sending more troops. It was after that the Iraqi security forces grew in capability, that the American casualties went down.

I would say to my friend, he has touched a very important point here. The only way we will reduce American casualties, which are now going up, and create an environment in which more Afghans will join the war against the Taliban and al-Qaida is for us to give them the confidence we are not going to leave. The best way we can do that and provide the security to do that is by sending more troops.

Incidentally, a final word and then I will yield to my friend from South Carolina. There are those, including my dear friend and respected chairman of the Armed Services Committee, Senator LEVIN, who are focused on sending more Americans only for training purposes, not combat troops. But here is something else we learned in Iraq. The fact is you need more than trainers to train the indigenous forces. One of the great tactical breakthroughs in Iraq that General McChrystal wants to put into effect in fact has begun in Afghanistan: There is no better way to train the Afghan forces than to partner them with American and coalition forces in Afghanistan. It is not just sending somebody to a school run by Americans to train them; it is having the Afghan units out there in the field, side by side, working with, fighting with, living with American soldiers that is the best source of training.

I couldn't agree with my friends from South Carolina and Arizona more. The situation in Afghanistan is a vital national interest. Everybody agrees with that. You can't listen to ADM Mike Mullen yesterday and decide the initiative is ours now. It is not. It is slipping away from us. The best way to regain the initiative is to send as many troops as we can. Listening to General McChrystal, a lot of them have to be combat troops, and to do so as quickly as possible.

I said ''the weather'' a moment ago. The winters are harsh in Afghanistan. That is not to say all conflict stops, but there is a fighting season in Afghanistan. This year, we did not have adequate forces there until the new wave the President, President Obama, deployed got there. They didn't get there until June. We were together in Helmut Province with GEN Larry Nickelson, an extraordinary Marine general, a patriot, great soldier, great fighter, great leader. Those Marines are turning back the tide against the Taliban there because they have the numbers.

And that is exactly what we have to do throughout the country. I thank my friend. I am glad to yield the floor to him at this time.

Mr. GRAHAM. I ask unanimous consent to be recognized for 5 minutes.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from South Carolina.

Mr. GRAHAM. I would like to pick up where my colleague, Senator LIEBERMAN, left off. The question to ask is, how did the Taliban regain momentum? How do a bunch of fighters, who do not have one airplane, no navy, no heavy weapons to speak of, how could they have regained momentum and begun to reoccupy parts of Afghanistan?

The only answer I can come up with is a vacuum has been created. That vacuum has two components to it: the lack of governance and not enough troops to prevent the Taliban from coming back in some areas of Afghanistan.

I would submit this: If we wait to train the Afghan Army as the only way to stabilize Afghanistan, we are going to waste 2 or 3 years. It is going to get so bad we cannot stand the casualties, and the American people will not tolerate a 2- or 3-year period of where we are just training the Afghan forces, sending them from the training cycle into combat. They are going to fold, just like they did in Iraq. We cannot train an army and have them fight at the same time. We need a little bit of breathing space.

So this idea that we are going to train the Afghan Army, that is the way we will regain momentum against the Taliban, quite frankly will not work. I think Admiral Mullen understood that. What will work is to send more combat power to clear the Taliban from the areas that the Taliban have reoccupied. The Marines are telling us in no uncertain terms, with the right mix of troops they are delivering punishing blows to the Taliban. But we can send 1 million troops to Afghan and still not deal with the fundamental problems they face and the world faces, the legitimacy of the Afghan Government in the eyes of the Afghan people. That is why the Taliban have come back because the Afghan Government has failed. They have failed in almost every respect to give the Afghan people the governance and the hope they need to stand up to the Taliban.

So this is one Senator who believes the way to regain lost momentum is to add more combat power and, yes, train the Afghan Army and police force with a new strategy which we now have in place.

It is labor intensive. It is going to take a lot of time. We have to understand, if we get the Afghan Army up to 400,000, the whole budget of Afghanistan is $800 million a year. It will take $5 billion a year to maintain that army. We are going to end up paying. I hope the American taxpayer understands that. But it is cheaper for us to do that than it is for us to be the 400,000-person army.

So when it comes to cost, it is better to train them and help them with their training and funding than it is for us to stay over there in large numbers forever. But we are going to have to plus up to regain lost momentum. Then we are going to have to focus on the real cause of the deterioration—governance.

The Karzai government has failed in many ways. Corruption is rampant. If, in the next 6 months, some major figures in Afghanistan are not prosecuted for ripping off the Afghan people, then nothing will ever change over there.

I have been a military lawyer serving as a reservist in Afghanistan. I can tell you that everyone who has looked at the Rule of Law Programs will tell you that corruption, narcotics corruption,

is rampant in that country. They need a legal system in Afghanistan that can stand up to the corruption. That means we have to protect the judges from being assassinated; we have to build capacity.

There are less than 500 lawyers in all of Afghanistan. There are 16,000 people in jail. Most of them went to jail without ever seeing a lawyer. We have our work cut out for us. We need benchmarks and measurements so I can go back to South Carolina and every Senator can go back to their constituents and say: We are not throwing good money after bad. We are going to push the Afghan Government to prosecute corruption, to provide security for judges, to find a way to empower the economy beyond the drug trade, and start making hard decisions about how tribal justice systems can be incorporated into the formal justice system.

There are so many decisions that politicians in Afghanistan have failed to make that have allowed the Taliban to come back. We need to put them on notice that with new resources and new troops, a new dynamic will be in place, and they will be making the decisions necessary to provide governance to their people. If they fail to do that, then they will not have our support because, at the end of the day, they have to want it more than we do.

Senator LIEBERMAN is right about this. The good news amidst all of this bad news is the Taliban is very much reviled and hated in the country. But put yourselves in one of these villages out in the middle of Afghanistan. What would you do, knowing that by night the Taliban comes in and rains terror? We have to replace that dynamic and give the people assurance that we are not only going to provide them security but the Afghan Government is going to provide them schooling and education, health care, and some hope.

Finally, I cannot tell you that we will succeed with more troops. I can tell you, we will fail if we do not send more troops. It is so much harder in Afghanistan than in many ways it is in Iraq. We are not the Russians. We are not the British. This is not Vietnam. This is not Iraq.

This is Afghanistan where 9/11 was planned and executed. We can get this right.

Mr. MCCAIN. Would the Senator yield so I can ask a question? I see we have one of our colleagues waiting to speak.

I wonder what the Senator thinks. We held a hearing yesterday with the Chairman of the Joint Chiefs of Staff, who is highly regarded. He conveys to every questioner, no matter which Member it is, a sense of urgency because of his belief and that of our military commanders on the ground that we are not winning.

In fact, in the words of Admiral Mullen: Time is not on our side.

Yet today, the President of the United States came out, after meeting with the Canadian Prime Minister, and basically said he is—after his spokesperson said he is going to take weeks and weeks to make a decision, he came out and basically said there is not a sense of urgency; that the strategy that was developed in March was not the operative strategy, even though Admiral Mullen said the March strategy was the operative strategy, and all we need to do is fill in the resources and the strategy.

My question to my friend from South Carolina is, how do you account for this apparent contradiction or difference in view about the sense of urgency that exists in the conflict in Afghanistan?

Mr. GRAHAM. Well, the one thing I can tell you is Admiral Mullen is going to be reappointed with probably every person in this body voting for him because he has gained our trust, and it speaks well of the President that he would renominate him. So he has obviously gained the President's trust.

I am not a military commander. But I do not have to be much of a military expert to understand his testimony. His testimony was pretty clear: We have lost momentum. The Taliban is reemerging, stronger than ever, and the capability of the coalition forces and the Afghan Army and security forces combined cannot reverse the momentum. Something new has to happen.

When we put on the table training the Afghan Army without additional combat power, how long would it take before they could have enough numbers to change things? Two or three years.

What would happen during that training period? It would deteriorate further.

What did he tell us? The pathway forward is that we have a new strategy, it needs to be properly resourced. I think what he was telling us more than anything else is that time is not on our side. Casualties in July and August were at an all-time high. We have 68,000 people wearing our uniform in Afghanistan who are getting killed in larger numbers than ever, and the dynamic on the ground will not change the momentum. To do nothing puts them in an environment where they are going to get killed in higher numbers, and what Admiral Mullen is telling us, and I hope the President will listen, is that time is not on our side, but, more importantly, it is not on their side.

This decision about troops, to me, is pretty easy. We need more, but troops alone will not fix Afghanistan. But without more troops in a hurry and with a sense of urgency, we are going to let the Taliban get stronger, the Afghan people are going to get weaker in their resolve, and more Americans are going to die than if we had more troops.

That is what I got out of the hearing. I hope the President is listening.

Mr. MCCAIN. Again, I also would ask my colleague, have we forgotten the lessons of history? We were there and we assisted the Afghans in driving out the Russians. Our assistance was critical. The Russians left and we left.

When we left, it left a vacuum that ended up with the fighting between warlords, and the Taliban filled the vacuum, the Taliban had an arrangement with al-Qaida and Osama bin Laden, and the terrorists who attacked us on 9/11—which we just commemorated—were able to be trained in Afghanistan.

I hope our memories are not so short that we are willing to risk a repetition of that kind of threat, which the President, during the campaign, seemed to recognize very accurately; called it the ''good war.'' He said it ''was a war we had to win,'' ''do what is necessary to win.''

Now I worry—I wonder if my colleague does—that every day we delay doing what we all know is necessary puts the lives of young Americans who are already there at risk and makes it a longer period of time before we can prevail.

Mr. GRAHAM. The last thought about that: I think our memory, the event that we need to remember is even later than 9/11. It is actually in Iraq. I remember very well this whole debate, and I would urge this administration not to do what the last administration did. That is exactly what is going on in Afghanistan right now. It is as if we have learned nothing.

It is clear, just as it was in Iraq, that we did not have enough combat power to secure the country, not enough mentoring programs to actually train the Iraqi Army, and only when we changed the strategy of adding more troops and gave the Iraqi people and the army some breathing space, the politicians, from the violence did things change. It is exactly the same thing here.

But right now we have a dynamic on the ground that is not much different from Iraq the first 3 years after the fall of Saddam Hussein. It is clear that Admiral Mullen recognizes that. The new strategy in March is a counterinsurgency strategy, and Senator MCCAIN, the one thing I remember is numbers matter. We need enough troops per population center to effect change, and we do not have the ratios to enact an effective counterinsurgency strategy unless we add more troops, and that means more than just trainers.

So my frustration is, as you said yesterday: We have seen this movie before. We are putting 68,000 troops in harm's way, and unless we properly resource them, give them more assistance, more people to help them fight, they are not going to change the battle momentum, and they are going to get killed in the process.

There is not enough people to effect the counterinsurgency strategy, just like there was not enough in Iraq. Have we learned nothing? So let's act.

Mr. President, we will support you to the nth degree to get the combat power and the trainers and the civilians into Afghanistan to turn this place around. But the sooner you act, the quicker we

can do it, and the sooner we will come home and the less lives we will lose in the long run. That is our message.

We respect you. You are the Commander in Chief. You won the election. But you have an opportunity, and it is clear to me that we are losing momentum. This is not a time to deliberate. This is a time to act.

The PRESIDING OFFICER. The Senator from Louisiana.

## TRANSPORTATION APPROPRIATIONS

Ms. LANDRIEU. Madam President, I come to the floor to speak about three amendments to the Transportation-HUD appropriations bill. I do wish to comment on the Afghan discussion and thank my colleagues who just spoke so eloquently. All three have been leaders on the issue of international engagements. I hope the Senators, particularly Senator MCCAIN and Senator GRAHAM, as we contemplate the right moves forward, will think about and be willing to fund nonmilitary programs as well. Many such programs have been shown, in front of the Armed Services Committee and the Appropriations Committee, through testimony given by Secretary Gates himself, as well as many military leaders, to actually help reduce violence by supporting development in Afghan villages, empowering individuals, particularly women in Afghanistan who, with a little bit of help and a little bit of support, can be the strength and cement that holds communities together. Educating girls is an important strategy.

One thing we have learned from the failed policies of the previous administration is that we have to use both hard and soft power combined, to make it smarter so we can actually win some of these battles. That is probably what President Obama and his team are thinking about: How do we unite the Congress, get past partisan rhetoric, and come up with a smart strategy to win in Afghanistan. In that way we might not only protect our troops, but we might be able to get them home a little bit sooner. I am sure that is what the President is thinking about. I look forward to working with Senators Lieberman, McCain, and Graham as we move forward, hopefully, in a bipartisan fashion, to protect our troops and to win in a place that we most certainly need to and keep the Taliban at bay.

I came to talk about three amendments. One is an amendment I have pending. It is amendment No. 2365. I see my colleague, Senator HUTCHISON, is in the Chamber. She is a cosponsor of the amendment. Although we are not going to vote on it tonight, I wished to speak for a moment about the amendment. Unfortunately, I will be away from the Senate tomorrow for a longstanding commitment. Tomorrow I will deliver a speech that I promised to give on behalf of Senator Domenici in New Mexico, so I will not be here for the vote. But I know my colleagues who are supporting this amendment will stand in and carry the torch.

My amendment will help disaster-stricken communities in Texas, Louisiana, Iowa, Indiana, Illinois, Wisconsin, Missouri, Arkansas, Tennessee, Florida and California. Congress appropriated $6.5 billion in a Community Development Block Grant for the series of disasters that afflicted these states in 2008. The problem was, that in this particular allocation, we prohibited these communities from using that money to match other Federal moneys that might be available, which makes no sense. Congress has appropriated funds using the Community Development Block Grant to respond to 19 other disasters, and virtually never resorted to adding such a prohibition.

What my amendment will do is revert to the regular language so that communities, such as Galveston—I see my colleague Senator HUTCHISON here. She and I will be together in Galveston on Friday to monitor recovery efforts there and she has been such a leader in this effort. However, there are still many communities in New Orleans and in southwest Louisiana and other parts of south Louisiana for which this amendment is crucial. It doesn't add money to the bill. It just allows us to use money more intelligently.

For communities that are struggling not just because of disasters but because of the atmosphere of tough economic times, it gives local and State leaders a little bit more flexibility to pull down some of the Federal money that has already been allocated to communities that need it the most. It is amendment No. 2365. Senator GRASSLEY is supportive, as are Senator MURRAY and Senator BOND. I thank them so much. We will consider that amendment tomorrow.

Now I want to turn to a new topic and I wish to speak against an amendment offered by my colleague from Louisiana, Senator VITTER, that will be considered tomorrow. I will not be here to vote against this amendment but will submit a statement for the RECORD. I strongly oppose that amendment—amendment number 2359, which will be voted on tomorrow.

This is an amendment I oppose for two reasons. No. 1, it is bad policy. The other reason I am against it is because this amendment only deals with public housing residents and other HUD-housing assistance recipients in the city of New Orleans. It doesn't address the problems of public housing residents right here in the District of Columbia, nor public housing residents in Chicago or New York, nor Baton Rouge, nor Lafayette. Only in New Orleans.

That is perplexing to me, that it is focused on only one city in our State and only one city in the whole country. That is one reason to vote against the amendment, no matter what it says, because it does not include other communities.

But the real reason to vote against the amendment is because it is mean-spirited and counterproductive. What this amendment basically says is that you can be evicted from public housing if anyone in your family commits a crime or gets in trouble with the law.

I understand family members. I am one of nine siblings. I am married and now have two children. I have many brothers and sisters and 38 cousins in our extended family and two wonderful parents. The Presiding Officer has met many members of my family. I like to try to take responsibility for everyone in my family. But parents, no matter how hard they try, sometimes somebody in your family does something that is wrong. Should the entire family become homeless? That is what the Vitter amendment will do. It is such poor policy. It is so mean-spirited. It is so counterproductive. It will mean an increase in homelessness for a city that has already seen our homeless population quadruple.

More than that, the nature of this amendment is so punitive. It penalizes grandmothers or great aunts or moms and dads, or siblings who are trying to do the best they can with very little. Children sometimes do very bad things. Sometimes you will have a family of five children. Four are wonderful and straight-A students. Then you have one child who gets in trouble with drugs or becomes an alcoholic, and causes trouble for the family. Senator VITTER has put in an amendment which he will ask this body to support that would do this: when one member of the family gets in trouble with the law, the whole family gets thrown out on the street.

If this amendment passes, I would like for him to have to go to the sister in fourth grade, because, let's say, the teenage son who is 17 is the one who is causing the problems. I don't want people to think I just pick on boys, but I think people understand we have lots of trouble with this age group of all genders. I would like maybe for my colleague to be the one who has to knock on the front door and tell the mother and the fourth grade little girl, who got an A on her test, performed in the band and has straight A's, that she can pack her bags and spend the night on the street. If I could modify this amendment to make him have to do that, I would. This is not compassionate conservatism. This is mean, and it is nonsense. It needs to be voted down.

To repeat the number, for my colleagues, both Democrats and Republicans, it is amendment No. 2359, only for New Orleans and only for people in public housing. I hope Members will vote no.

Let me say one other thing about this. Unfortunately, my colleague and some people supported tearing down all the public housing units in New Orleans after the storm because some of them were destroyed. Some people took this as an opportunity to say: We never liked them anyway. They

weren't run very well. Which was often true. So let's knock them all down and too bad for the people who used to live there, even though most of those people worked. I am going to remind my colleague and others, they don't live there for free. Under the law, they pay 30 percent of their income to live in that housing. He wanted to knock them all down.

Some of us fought back and said: OK, we want to reform them. We want to build better communities. We will work with you here. So because I stepped in and a bunch of others stepped in, Catholic Charities and many activists from all walks of life, including the business community, we said: We are going to rebuild these communities. Well here is the most amazing thing about it: it is working. Shawn Donovan, our Housing Secretary, was just there. We had standing room only, with people from every different race and walk of life. We are patting ourselves on the back saying: It was bad 10 years ago. It was bad 5 years ago. But now we are all working together in the spirit of unity in a city that has been absolutely brought to its knees by flooding and by political bickering and bomb throwing. And we made things better. Then this amendment has to hit the floor. It is a disgrace. I urge my colleagues to vote no on amendment 2359.

While I am here, I will say a word about another amendment that has been agreed to this afternoon by 73 votes, unfortunately. It was another Vitter amendment. It was amendment No. 2376. I voted no. There were 26 of us who voted no, but 73 Senators voted yes. I know I am in the minority, but that is what the Senate is about, giving the minority a voice. I wish to say something about this. This amendment reinstated a law that says that if you live in public housing, you have to do 8 hours of community service. That sounds pretty good. People think, we are providing housing for people. They should be grateful. The least they can do is community service.

I am a big supporter of community service. I try to do it when I can. I support community service and I support calling all of our citizens to community service. What I don't support is making poor people and mostly minorities do community service, while other people sit on the sideline and never are required to do it, even though the largesse they receive from our government is much greater than a resident of public housing could ever hope to get even if they lived there for 50 years.

If you lived in public housing for 50 years, you could not possibly benefit as much from the General Treasury as if you would if you were the executive of AIG to whom we gave a gazillion dollars. Did we ask them to do 8 hours of community service? We didn't even ask him to pay the money back. Somebody has to wake up in this Chamber.

I am not fussing at my colleagues because I know people have a different view about this. But if we want to require law students to do 8 hours of community service for the loans they get, fine. But don't just pick on the poor because they can't fight back, and they don't have any lobbyists up here for them.

Those are the two amendments my colleague could come up with today. I can't wait to see what he comes up with tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

## AFGHANISTAN AND THE NATO ALLIANCE

Mrs. HUTCHISON. Madam President, Senators LIEBERMAN, MCCAIN, and GRAHAM took the floor a few minutes ago. I have some concerns about the direction we are heading in Afghanistan as well.

Yesterday the Chairman of the Joint Chiefs of Staff, ADM Mike Mullen, came before the Senate Armed Services Committee and said that success in Afghanistan would probably require more forces and certainly more time. I think all of us who are aware of what is going on there—and certainly I was there last year myself; many of us have gone over there to see for ourselves what the conditions are—and I think clearly we can all agree we are going to have more time in Afghanistan.

While the Chairman did not specifically ask for more troops, and had not had a request from GEN Stanley McChrystal, who is the senior American officer and NATO commander in Afghanistan, he did, however, indicate he ''believed—having heard General McChrystal's views—and having great confidence in his leadership,'' as we all do—''a properly resourced counterinsurgency probably means more forces, and, without question, more time and more commitment to the protection of the Afghan people and to the development of good governance.''

There are currently approximately 64,000 American troops in Afghanistan. But it is becoming increasingly clear that we cannot achieve our goals in Afghanistan unless we add additional troops and anticipate a protracted effort.

To his credit, President Obama laid out a new strategy in March. It properly put primary emphasis on building the governance capacity of Afghanistan and building up Afghan security forces. He also said he would send—and has—21,000 additional U.S. troops. We know now that was probably not enough and more troops will be needed.

Just this week, the President said we should ''not expect a sudden announcement of some huge change in strategy,'' and he further pledged that the issue was ''going to be amply debated, not just in Congress, but across the country.''

I welcome that debate. We need to agree as a nation on a strategy for victory, on the resources necessary to complete the mission. We need to block attempts by the cut-and-run crowd to limit the deployments and operations of U.S. troops or to tie their hands as to what they can do while they are there. We do need more Afghan forces. It should also be abundantly clear that if our strategy is going to work, we must have another resource.

I want to call attention to the role of NATO. With the Taliban resurgent and casualties rising to levels never seen before in Afghanistan, we must have more security forces in Afghanistan, and it is well past time for our NATO allies to step up and do their part.

The security of the free world is at stake in Afghanistan. Sometimes there has been legitimate argument about whether there is a legitimate American interest in some of the places we have gone. It cannot be questioned that in Afghanistan our security interests are at stake. In fact, the credibility of the NATO alliance is at stake, and I think whether the NATO alliance proves it can be successful and relevant in today's world is at stake in Afghanistan.

NATO countries need to realize how much it is in all of our interests to defeat the Taliban resurgence and prevent a new al-Qaida safe haven from developing there. We need to prevent ungoverned territory in Afghanistan from being used by terrorists with global reach, and the only way to ensure this is through a strong and stable Afghan Government. But they are not going to get there without the help of the NATO alliance. The horrors of September 11 were only a taste of what the terrorists, with global reach, might accomplish if they have uncontested territory from which to operate.

Our NATO partners need to realize that the credibility and relevance of the alliance itself is now being tested in Afghanistan. NATO no longer faces a threat on the continent of Europe or even on the periphery of Europe. For NATO to be relevant, it must have a global expeditionary role in the defense of our common interests, particularly against the threat of global terrorism. If NATO cannot succeed in Afghanistan, where we all agree NATO must succeed, the alliance will be weakened to the point that will call into question: Will it succeed anywhere?

Many NATO countries are present in Afghanistan, but among them only a few are bearing the brunt of combat operations: Great Britain, Canada, the Netherlands, Denmark, and, of course, the United States. But just this week, Canada announced its intention to pull out all forces by 2011. Other NATO allies have limited operations of their troops through restrictions on their missions—restrictions that I think are a little embarrassing, frankly.

For example, some nations that have signed up—part of NATO, willing to do their part in Afghanistan—refuse to conduct any operations at night. Others refuse to carry Afghan soldiers on their helicopters. Others are prohibited from participating in combat unless

they are fired on and protecting their own base. In other words, they are prohibited from coming to the aid of an ally under attack.

Let's be frank. If a NATO member cannot handle the responsibilities of alliance membership, they should not enjoy the privileges and prestige of membership. Our NATO allies need to remember what was agreed to in Bonn in December of 2001. The alliance gave their solemn word to help Afghanistan overcome the ravages of terrorism and civil war. The credibility of our allies is at stake.

The NATO alliance has a very simple mission. It is: If one is attacked, we are all attacked. America has come to the aid of European nations well into the last century—throughout the last century. America was attacked on 9/11, 2001, and we have not seen the response that would meet the test of the mission of NATO. We have not seen our allies on the field in Iraq, with notable exceptions. Great Britain has always been there. Others have been there part time. But America has carried the lion's share. They are carrying, by far, the lion's share in Iraq today.

Afghanistan is the hotbed in that area, between Afghanistan and Pakistan, of al-Qaida, which was the attacker of our country on 9/11. NATO agreed in December of 2001 that they would be engaged in Afghanistan, and yet NATO has not fulfilled its responsibility, even though the lion's share of our troops—our troops who have done an outstanding job, our troops who are fatigued from overdeployment have done their jobs—have not had the help of NATO.

NATO is supported by the taxpayers of America because we thought it would be an alliance that would come to our aid, as we have come to the aid of every member of NATO. The United States pays 24 percent of the operating costs of NATO.

I am the ranking member of the Military Construction Subcommittee of Appropriations, and I can tell you that the military enhancements and military construction for NATO are in the range of $230 million in this year's bill. It is usually in that range—sometimes a little more, sometimes a little less. But basically America is paying a quarter of a billion dollars every year for military construction and enhancements for NATO.

There are not NATO bases in America. They are in other places. Yet we are having to now put more troops on the line because our NATO allies have restrictions, except for the ones I have named that are in full combat and full partners and doing their jobs, and we appreciate that so much.

But I think the NATO alliance must step up to the plate. As we are debating more troops, I know we will do what is necessary because America always does what is necessary, and I think our NATO allies know that, but sometimes they just sit back and let us do it. They let our taxpayers pay the tab. They let our troops be the ones who lead in the field.

We went to Bosnia. Bosnia was in their backyard, but they needed us to step in; also in Kosovo. We have been there for them to step in because when it is necessary America is there. But when we are debating the increase in troop strength in Afghanistan—which everyone who has been there knows we are going to need—let's not forget to bring in another source that would help America in this time of need, while we are continuing to keep our commitments in Iraq with very little help from the outside, while we still have troops in Bosnia, and while we have 64,000 troops, the lion's share, in Afghanistan.

Now we are looking at sending more, and I think now is the time for us to put it on the table for our NATO allies, that they have a commitment, if the NATO alliance is relevant. ''If one is attacked, we are all attacked'' is a great, simple, clear mission. But it is not simply successful because we have the right mission. It takes every member doing its fair share. And, most certainly, at a time when America is doing so much more, this is the time for our allies to take the shackles off, to engage, to be in combat, to put our treasure on the line with their treasure and not just our treasure alone.

I think it is time for us—and I call on the President—and fulfill the mission. Terrorism is the enemy of every NATO country. This is not an American fight. It is a global fight for freedom. If we lose in Afghanistan and give unfettered territory for operations of al-Qaida, every NATO country will be attacked. Don't they see it? Don't they have the commitment and the courage to stand up? Just because it is in another country and seems far away, can they be so naive?

When we talk about more American troops, as the President has said we will, I ask the President to look for more troops from other sources as well and to ask our allies to step to the plate and be our partners as NATO envisioned.

Madam President, I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Maryland.

(The remarks of Mr. CARDIN pertaining to the introduction of S. 1678 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. CARDIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## IN PRAISE OF ORLANDO FIGUEROA

Mr. KAUFMAN. Mr. President, I rise once again to recognize the service of one of America's great Federal employees.

Last week I spoke about an outstanding public servant who refused to give up when she was faced with life-changing trauma. My friend Vice President BIDEN says America's greatest attribute is that when it gets knocked down, it gets right back up.

Perseverance is one of our national strengths. It has seen us through the lean years and the times of war. It has also seen us through the setbacks of our march of science and discovery. In one such setback a few years ago, NASA experienced a string of failures to land an exploratory probe on Mars. After the inspirational voyages of Viking 1 and 2, which landed on the red planet of the 1970s, NASA did not send spacecraft to the surface of Mars for 20 years. After a brief but successful return in 1997 by the Mars Pathfinder, NASA prepared a series of missions aimed at exploring the Martian surface and laying the groundwork for a future astronaut mission.

The enthusiasm at NASA and in our Nation's scientific community quickly turned to disappointment as two consecutive missions failed to reach their destination. Some of my colleagues may remember how frustrating it was to learn that one craft burned up in Mars' atmosphere because a contractor measured in English units instead of the metric system used by NASA.

When Orlando Figueroa took charge of NASA's Mars Exploration Rover project in 2001, he set out to change the mood. Optimism and excitement had long been the driving force behind NASA's successes, and Orlando knew that despite recent setbacks, NASA could once again achieve and inspire.

Less than 3 years later, under Orlando's leadership, NASA's Mars Exploration Rover project successfully landed some of the most advanced technology ever created onto the Martian surface.

He pushed his team to look forward, not backward, and Orlando's leadership was critical as the team faced challenges in advance of a rapidly approaching launch date.

The Mars Exploration Rovers—called Spirit and Opportunity—successfully landed on opposite ends of Mars in January 2004 after a 6-month journey.

Together, they traversed several miles of the planet's surface and captured over 100,000 high resolution photographs for use by scientists studying the Martian climate and soil.

The tests conducted by Spirit and Opportunity have brought our researchers closer to finding evidence of water and possibly past life on our neighboring planet.

The Mars Exploration Rover project also reignited the imaginations of countless students.

I have spoken a number of times already about the importance of supporting education in the fields of science, technology, engineering, and mathematics or ''STEM.'' The success

of Orlando and his team at NASA contributes greatly to our efforts to renew interest in space exploration and scientific discovery among our Nation's youth. It was this same enthusiasm that first led us to orbit the Earth and reach the Moon.

Orlando exemplifies the kind of perseverance endemic to America's civil servants.

He and his team demonstrated once again that our Nation, when we get knocked down, can get back up and accomplish any task we set for ourselves.

It was for this reason that Orlando was awarded the Service to America—Federal Employee of the Year medal in 2005.

I hope that all the members of this body will join me in recognizing the important contribution made by Orlando Figueroa and all of the hard-working employees of NASA.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HEALTH CARE REFORM

Mr. BROWN. Mr. President, as others of my colleagues have done, I have come to the floor periodically—pretty much every day we have been in session in the last couple months—and shared letters from people from Ohio who are in the midst of a personal health care crisis—small business-people who want to cover employees but simply cannot afford to, and individual young people who are removed from their parents' insurance when finishing school or who come back from the Army and cannot get insurance, and people who have preexisting conditions—all kinds of people who, in many cases, thought they had good health care insurance, and they got very sick, it got expensive, and they lost the insurance.

I wish to share some letters again tonight. These are new letters and stories I have heard. Over the last month or so, I have done townhall meetings in Cincinnati, where 1,500 people showed up, and this is the most conservative part of Ohio. Two-thirds of them supported the President's health care effort and about a third opposed it. I did a large townhall meeting also in Columbus, and I did roundtables—135 or so—around Ohio in the last couple years, where I have listened to people talk about issues and what we can do to make my State better. I have been in all 88 counties doing that. I did an electronic townhall meeting the other night, where several hundred people were on and I took questions and explained the health care legislation; and I especially tried to answer questions about some of the misinformation.

It is important to understand that the insurance industry has a lot to lose with this health care bill. They like the system the way it is. It works for them and they are immensely profitable. Their executives are making $10 million, $20 million a year. Some of their CEOs and top management put out some significant misinformation about this bill to protect their economic interests. That is important to remember.

Elizabeth is from Clermont County, along the Ohio River, east of the Cincinnati, a fast-growing suburban county. She writes:

I am 25 years old and unemployed. Years ago, I was diagnosed with a blood disorder. Up until I turned 25, I was covered under my father's health insurance through his work.

When I turned 25, I had to find my own health insurance, but because of my pre-existing condition, I was denied by most insurances.

The best one I could get is of very poor quality and it's very expensive.

That happens with a lot of young people. They are under their parents' insurance and they finish school and move out and the insurance companies drop them when they are 22, 23, 24 years old, even when they are employed, because people at that age—similar to the pages in front of us—are probably on their parents' insurance, but when they finish school and get jobs—and they are probably not going to be the kind of jobs, in many cases, that have health insurance—except that, by that time, we are going to have passed this health insurance bill. But one of the things our bill does is says no insurance company may drop you from their plan until you turn 26. So a young person who finishes school and is trying to get on their feet or who goes to the Army for 3 years and then comes back out and maybe is living at home trying to get on his or her feet, until he or she turns 26, he or she can continue to be on their parents' insurance plan. Once they turn 26 and they don't have insurance, they can go into the insurance exchange, which we can talk about later.

So this bill will absolutely matter to somebody such as Elizabeth.

Sharon is from Portage County. She says:

My husband will turn 65 at the end of the year. He wants to retire, and after working hard for his company for 30 years, he deserves it.

But I'm only 62 and recently lost my job. If my husband retires, I will have no coverage for three years.

She has to wait until she is 65.

We will not be able to afford insurance for me based on his retirement savings.

Please help us and many others who are struggling.

Sharon lives east of Akron, the home of Kent State University, near Ravenna, Aurora, and other communities there. Sharon's situation would allow her, regardless of her income, to be able to go into the insurance exchange, which means that if she is fairly low income, she will get subsidies from the government to help pay her premium. With the insurance exchange, she will be able to choose, under the plan we have written so far, whether she wants to go with Aetna, Blue Cross, Medical Mutual, a not-for-profit insurance company in Ohio, or perhaps into SummaCare in the Akron area or into the public option. The legislation provides for an option that is not private—a government option—that will do several things. First, the public option will keep the private insurance companies honest. They will quit gaming the system if they have to compete against a public Medicare look-alike plan.

Second, the public option will help to drive costs down because they will compete against these private insurance companies, and that is so very important.

Third, the public option will be available particularly in rural areas where there is not a particularly competitive market. In southwest Ohio, for instance, two insurance companies have 85 percent of the market. A public option would inject needed competition where there is not any today.

Margaret from Greene County in the Xenia and Jamestown area said:

My husband works for a small business. Although we have health insurance through his employer, my husband has not been to a doctor for a few years.

I believe he is putting off regular checkups because he is afraid the doctor will diagnose one of those conditions, such as diabetes, that blacklists people from health insurance.

Small businesses cannot afford to have even one person with a chronic illness on their insurance because it raises the rates so much for the company.

I understand that the insurance and drug industries have too much money and political power, but my husband can't afford to lose his job.

First, about that last point, 5 years ago I was in the House of Representatives. In those days, when President Bush was in the White House, he pushed a bill through the Congress to partially privatize Medicare. It was a total giveaway to the drug companies and insurance companies. Those days are over. With the legislation we pass, the drug companies are going to be unhappy with it and insurance companies are going to be unhappy with it. I want them to be treated fairly, but I don't want them to have the power in this health care system they have had in the last few years, and they won't under this legislation.

Margaret is right about a small business. If you work for a company that has 20 employees—say you own a small business with 10, 15, 20 employees and one of them gets very sick and they have to take expensive biologics or go into the hospital and their costs are high. The insurance company will do one of two things: It will either cut you out of the plan or cut the small business out of the plan or it will raise rates so high on that small business—because they have 1 or 2 really expensive cases, the insurance companies will raise their rates so much for that

small business that the small business won't be able to afford it anymore.

What Margaret's husband's employer could do, so that Margret's husband could go to the doctor even if he had major health problems to be taken care of, is if he chose to take his employees into this exchange, again, they could go to Aetna, Medical Mutual, BlueCross, or the public option. And the small business is going to get tax credits that are not available now to bring down the cost of the insurance.

Once a small business goes into a larger pool, the rates come down because small businesses and individuals always pay more than large businesses that can spread their risk to a much wider pool.

The last one I will share is from Jamie from Fairfield County:

I am a married 40-year old mother of three sons. I am currently uninsured, but my husband is self-employed and has insurance for him and our children.

The insurance companies refuse to insure me due to a preexisting condition. My condition does not require any treatment and I haven't followed up on it since my diagnosis 4 years ago.

Without insurance, I am nearly 3 years overdue for my mammogram and 4 years overdue for my OB/GYN exam. I have not had any of the preventive testing that begins in your forties.

My family is plagued by heart disease, cancer, and diabetes. I fear that without the opportunity for health care, I will not be able to be here for my children and my future grandchildren.

I ask that you please give me a voice with those opposed to health care reform.

Jamie, from Fairfield County, a suburban county southeast of Columbus, is in a situation in which far too many people are. She needs the preventive care, but she does not get the preventive care because she cannot get insurance because she has a preexisting condition. Imagine that: You are 40 years old—people in this body, it is hard for us to be as sympathetic as we should be. We make a good income here. We have status in the community. Most Members of this body generally have pretty good health insurance, but it is pretty hard to empathize. But we need to with people such as Jamie—40 years old, preexisting condition, but she does not go to the doctor to get preventive care. She doesn't get the OB/GYN exams. She does not get the mammogram. She does not get the preventive testing a 40-year-old woman should get. What happens? At some point, she may come down with an illness, a significant, serious expensive illness that will not only compromise her health or worse, but it will mean the health care system will spend a lot more money on Jamie than it would have if she had insurance to get preventive care.

That is what is so important about this legislation. One of the things our bill does is insurance companies under our bill—the public option, Aetna, CIGNA, or any of the insurance providers, public or private—the legislation we are passing will say to them—they are charged a premium, but they can't make them pay a copay for preventive care. Nobody under our plan who goes to a doctor in the health care exchange will pay a preventive care copayment. That means more people will get mammograms, more men tested for prostate cancer, more men and women will get colonoscopies when they turn 50, women will get OB/GYN exams. All these exams will help people live longer and more prosperous lives and help prevent them from getting huge medical bills that so often lead to all kinds of bankruptcies and other financial problems.

I get hundreds of these letters a week—most of us do—from people who simply want a fair shake. With this legislation, as we know, if you have insurance and are happy with it, you can keep your insurance. We are building consumer protections around that insurance, so no more cutting people off with preexisting conditions and no more annual caps or lifetime caps if they get sick, and they can't take their insurance away, no more discrimination based on gender, age, geography, or disability. That will be in the past.

The second thing the bill does so very well is it provides insurance for people who don't have insurance, decent, affordable, high-quality insurance.

Third, it helps small businesses so they can provide insurance for their employees, because most small businesses I know, whether they are in Toledo, Youngstown, Athens, Gallipolis, Dayton, or Springfield, want to provide insurance. Most small businesses want to provide insurance to their employees, but so many can no longer afford the insurance they provided 10, 20 years ago.

The last thing our bill does is it provides a public option. That means people will have the choice. It is another choice they can make, another choice they can make if they don't want private insurance. They can go with the public option, and they will see the public option keep prices down, provide choice, and keep the insurance companies honest.

This legislation makes sense. It is time we move this legislation in the next few weeks and get it to the President's desk by Thanksgiving.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

## AFGHANISTAN

Mr. CASEY. Mr. President, I appreciate the statement my colleague, Senator BROWN from Ohio, just made about health care. It is a critically important issue we all have been working on. He and I were fortunate to serve this summer and throughout the year, but especially this summer, working on the bill he spoke of—the Health, Education, Labor and Pensions Committee bill.

I rise tonight to talk about another significant challenge we face as Americans; that is, the really grave challenge we face in Afghanistan.

I had the opportunity this summer toward the end of August to travel to both Afghanistan and Pakistan with Senator BROWN of Ohio and his colleague from Ohio, ZACK SPACE, a Member of the House of Representatives. They would agree with me, and I believe most Americans would agree, that when we have troops on the ground in harm's way in such an important part of the world for our security, we must have a very serious debate, a sober deliberation, an objective assessment of where we are right now.

The administration has expressed, and I support, the overall goal in Afghanistan to ensure that al-Qaida or any other terrorist group does not gain the sanctuary it requires to plot, plan, or train for another terrorist attack on American soil or against our allies.

We have seen the direct impact of an unstable Afghanistan right in my home State of Pennsylvania. Last week, I traveled to Shanksville, PA, in southwestern Pennsylvania, as the world knows now as the place where the plane went down in September of 2001. That was an unspeakable act of terrorism. Thank goodness for this Capitol and for our country that a group of brave Americans took control as best they could and made sure that plane, which was headed for Washington, did not get here. And they gave their lives in that effort. The men responsible for those attacks conducted their planning from Afghanistan, not from anywhere else. It is in our national security interest to make sure that Afghanistan today never again becomes a safe haven for the likes of Osama bin Laden or any other terrorist who may confront us in the future and continues to confront us today.

As of this week, at least 822 members of the U.S. military have died in Afghanistan, including 35 from the State of Pennsylvania. Those who gave, in Lincoln's words, ''the last full measure of devotion'' to their country, we are thinking of them and their families tonight, as we do every day.

We are also remembering those who have sacrificed time in Afghanistan in this effort and some who have been wounded, so many who have been wounded—thousands have been wounded in just this conflict itself.

We turn again to Lincoln when he talked about ''he who has borne the battle''—in the modern context of that, him or her, fighting men and women on the ground in Afghanistan, in Iraq, and other places around the world. We are thinking of them tonight, and we pray for them. But we also pray for ourselves that we may be worthy of their valor.

I know there have been a lot of reports lately and discussions about what has been happening in Afghanistan. We have seen recent reports of heavy Taliban activity across 80 percent of Afghanistan. That doesn't mean they control 80 percent, but there is a lot of activity in 80 percent. That number is up from 72 percent in November 2008

and way up from 54 percent a year before that. That is just their activity. But a substantial Taliban presence, one or more attacks per month—that is the measurement of this—was seen in another 17 percent of the country.

It is critical that we have taken measures to recalibrate our efforts in Afghanistan. General McChrystal, a great military leader, a great mind, with whom we had a chance to spend some time on our trip, was confirmed by the Senate in June to take command of NATO and U.S. operations in Afghanistan and arrived in Afghanistan a few weeks later. General McChrystal recently submitted his strategic review to the White House, and we look forward to hearing the results of that review. We need to give General McChrystal and his team an opportunity to implement his strategy and to put it into action. That has just begun over the last couple several months.

Having spent so much of the last 8 years since September 11, 2001, not focused on Afghanistan, we cannot expect results there overnight. This is why I stand in support of Chairman CARL LEVIN, the chairman of our Armed Services Committee, of his call for an expansion, a rapid expansion of the Afghan national security forces, both the Afghan National Army and the Afghan National Police. I traveled with Chairman LEVIN in May of 2008 to both countries, and I learned on that trip and many days before and after that trip of his leadership, his experience, and his understanding of the issues we confront in both Afghanistan and Pakistan and other places around the world. I believe his understanding of these issues is unparalleled. There may be some here who know as much, but few could make the case they know more. I have confidence in CARL LEVIN's assessment of where we are today and his recommendations for where we should go in the future.

In July, General McChrystal assessed that the Afghan Army could expand from 134,000 troops to about 240,000, and the police force could go from 92,000 personnel to about 160,000 personnel by 2013. Chairman LEVIN wishes to see those same numbers but on a shorter timeline, to be accomplished in 2012. So that is something we should debate here. But I think any acceleration, any strategy that gets us to a higher number of Afghan Army and Afghan national police at a faster rate is what we have to be committed to.

Because of low levels of literacy and experience, in some cases, it will take time to build a competent Afghan officer corps—the highest level of training in the Army. This will require that we use every possible resource and enhanced U.S. training capacity to get the job done. To get to those numbers will not be easy, but I believe we can do it, and so do officials in the Afghan Government. While in Afghanistan last month, I met with Defense Minister Wardak and the Interior Minister, Mr. Atmar, who both feel confident they can adequately accelerate training of these security forces.

There is a growing insistence here in the Congress and across the country that the Afghan Government begin to assume more responsibility for its own security. In my visit to Afghanistan just after the recent Afghan Presidential election, I met with President Karzai and explained that the United States does not plan an open-ended commitment to Afghanistan. The Afghan Government, whether led by Hamid Karzai or anyone else, needs to recognize the critical need to provide security, goods, and services to the Afghan people. While we certainly are committed to assistance and development, it is ultimately the responsibility of the Afghan Government—the government itself—to reform and rebuild the country. Good governance and the fight against corruption are crucial elements to garnering public support and strengthening the effort against the extremist forces in the country. An Afghan public that can trust its government not to steal from them is more likely to support this hard-fought counterinsurgency effort—the effort that General McChrystal has talked about and will continue to tell us about.

I have to be very candid, though—and I have said this publicly already in different ways—that when I asked President Karzai specific questions about what we can tell the American people about his efforts going back a number of years, including his efforts at present—on a lot of these critical questions, such as, how are you doing on delivering services to your people; how are you doing on anticorruption efforts; how are you doing on improving your governance—he had, at best, inadequate answers to those questions. I was much more impressed, candidly, by his ministers—Minister Wardak and Minister Atmar—who are charged with the responsibility for the army and the police. That is the good news, despite the bad news I just reported about President Karzai, in my judgment. It is only my opinion, but I have met with him twice and I have read a lot about him.

Our challenge in Afghanistan comes not only from a resurgent Taliban but development needs across the country. Farmers grow poppy because they can get a good rate of return and because the Taliban threatens them if they do not. Basic development projects are threatened and extorted by Taliban forces. U.S. political relationships with local officials are often tenuous, as these leaders are often the main targets of Taliban attacks—brutal attacks and threats on people's lives, on their families, and on their property.

That is one reason why the courageous work of the Provincial Reconstruction Teams—the so-called PRTs—is essential to our success. These teams, composed of able and brave personnel from USAID, the Department of State, and the Department of Agriculture, supported by the U.S. military, are on the front lines of providing security such that political and development progress can flourish in these places across Afghanistan. These teams are operating in the most difficult environments in the country, and I want to thank them for their remarkable efforts and their sacrifice in contributing to our mission. I know General McChrystal not only respects and appreciates but works closely with all of these parts of our government that are doing such a great job for us. While the enhanced presence of Afghan forces is our ultimate goal, these Provincial Reconstruction Teams are a substantial part of how we are going to get there.

This approach is comprehensive and smart, but it does require time. The courageous work performed by the PRTs, combined with an enhanced effort by the Afghan national security forces, I believe, can finally put us in a position where a stable Afghanistan is achievable.

The challenge is not limited to Afghanistan and the Obama administration has adopted the correct holistic approach to include Pakistan, the neighbor to the east of Afghanistan. We have begun to rebuild important ties with the Pakistani Government based on trust and a common understanding that extremist forces are a serious threat to the Pakistani state, and not an asset to be expended on its other national security interests. In Congress, we have also worked to ensure that our relationship with Pakistan is based on mutual trust and a commitment to build links at all levels of Pakistani and American society; among governments but also with nongovernmental organizations—academics, businessmen and businesswomen, humanitarian workers, and across the board. We have a lot of Pakistani Americans who are helping us do this. While we will also maintain our support for Pakistani's military, this new multitiered approach will be critical to building the solid foundation for a new relationship between our two countries—the United States and Pakistan.

Despite our efforts to deepen our relationship, the news from Pakistan in recent days has not been encouraging. We are happy that they took the fight into the Swat Valley and had success there. Thank goodness they did that. But when I say the recent days, I mean the last several days and weeks. Over the weekend, Pakistan's Government announced the sacking of more than 700 police working in the Khyber tribal region. These police were fired after not showing up for work because they were threatened by militant leaders in the region. This is not a new trend in Pakistan. Two years ago, hundreds of police resigned under threat from local Taliban forces in the Swat Valley. So we have to monitor this, as we do developments in Afghanistan. Without the basic security provided by the police in these volatile border areas, the

difficulty of our efforts is compounded. I hope that the Pakistani national government can do more to properly train and equip these important front-line defenses against extremist elements in Pakistan and/or the border region.

Human rights questions have been raised in recent days in news accounts. That is also a concern we have. I had the opportunity, as well as Senator BROWN and Congressman SPACE, when we were there, to visit a camp where they are taking care of those who were displaced by the fighting in the Swat Valley—so-called IDP camps, internally displaced person camps. So far, that effort has met with success, and thank goodness the Pashtun tradition in Pakistan has meant as many as 80 percent of the people displaced were taken into homes and the government and military didn't have to help them directly, not until they had to go back to their homes and their communities.

We also had a chance to meet with General Kiyani, a very strong and capable military leader, who gave us a briefing on the efforts against the Pakistani Taliban. I believe our national security—literally the safety of our families from another grievous attack here in the United States—depends on our success in South Asia. I applaud Chairman CARL LEVIN for his vision and leadership on this important issue at this critical time, and I encourage my colleagues to do the same.

We ought to have a full debate in the Senate, in the House, and across America about troop levels. We are not there yet. There has been no recommendation made by the administration beyond the 17,000 combat troops and the 4,000 trainers, but it is never too early to start an important debate about troop levels. We also should debate and continue to get more information about evaluating the progress we are making there. President Obama and his administration are committed to doing that. They have presented to the Congress a series of metrics or benchmarks—pick your word—weighing and evaluating how we are doing on our progress there. A series of tough questions has to be asked on a frequent basis. They have to be answered by the administration if Congress is going to be satisfied with our support, both military and nonmilitary.

I believe we can get this right if we debate it, if we ask tough questions and demand answers to those tough questions of the administration, of the military, and any other question that Congress and the American people want to have asked and answered.

Finally, I mentioned the great work General McChrystal and our fighting men and women are doing every day of the week across the world in places such as Afghanistan and Iraq, but let me also highlight, before I conclude, three people on the ground there who are leading our efforts on the nonmilitary side representing our State Department: General Eikenberry, a great military leader who is serving as our Ambassador to Afghanistan and who is doing great work there; Ambassador Paterson in Pakistan, who has served now in that capacity under two administrations working very hard in a difficult situation in Pakistan; and finally, Ambassador Holbrooke, who has served this country in a number of capacities, now put in charge of monitoring the work and being a constructive force in both countries—both Afghanistan and Pakistan. We are grateful for their public service, their commitment to our security, the commitment to our troops they have made, and the commitment to getting this right so the American people can have confidence in this policy going forward.

We are not there yet. We are just beginning a full debate. But I would urge our colleagues here to pay close attention and to continue to ask these questions so we can make sure that Afghanistan is stable—as we hope for Pakistan as well—so we can protect our people from another terrorist attack or the threat of that kind of an attack.

I thank the Chair. I yield the floor.

## REMEMBERING OUR FALLEN SOLDIERS

Mr. DURBIN. Mr. President, this week, an Illinois family who lost a son in Iraq will remember the anniversary of his death. Their son was 19 when he was killed in a vehicle accident in Baghdad, 1 year ago.

Thousands of American men and women have given their lives in the wars in Iraq and Afghanistan. They have not been the first to do so in service to our country. Sadly, we know they will likely not be the last.

How do we pay tribute to those lost who have served? The Illinois poet Archibald MacLeish asked that we remember them. In his well-known war poem, written during the depths of the Second World War, a young, dead soldier speaks. ''We were young,'' the soldier entreats. ''We have died. Remember us.''

And so we do. We remember them in our communities, in ways big and small. We remember them here on the floor of the Senate.

And we remember them when we debate issues of national security that will dramatically affect our military forces. The vote to send young Americans to war is the most serious decision any of us will make on this Senate floor. I have written notes to the families of the many Illinois servicemembers who have been killed in Afghanistan or Iraq. Every letter makes plain the burden we have placed on—and the trust we have placed in—military members and their families.

Finally, we remember them when we consider how to honor their friends in service, those in battle today and those who are fortunate to return home. Over the past years, Congress has tried to keep its promise to our troops. We have tried to provide them with the equipment and the resources they need to complete the work we have asked them to do. We have welcomed them back with new opportunities, like the educational benefits in the new GI Bill, that will help them take the next successful step in their lives. And for those who have returned home with injuries, we have worked to provide them with the best medical care available.

The young Illinois soldier who died last year has a strong family: mother, father, sister, brother, and friends. They will remember him. In this Senate, we do, too.

## BURMA'S FORGOTTEN POLITICAL PRISONERS

Mrs. FEINSTEIN. Mr. President, I rise today to bring to my colleagues' attention a new report by Human Rights Watch entitled ''Burma's Forgotten Prisoners.''

The report offers moving and compelling stories of political activists in Burma who have put their lives and careers on the line to raise awareness about the human rights situation in their country.

In the face of threats, intimidation and beatings, they have embraced nonviolence to put pressure on the ruling military junta to respect the legitimate aspirations of the people of Burma and support a new government based on democracy, human rights, and the rule of law.

We all have been inspired by the story of Burma's most famous political prisoner, Nobel Peace Prize winner and leader of the democratic opposition, Aung San Suu Kyi.

After leading the National League for Democracy to an overwhelming win in the 1990 parliamentary election—a victory quickly annulled by the military junta—she has spent the better part of the past 19 years in prison or under house arrest.

Recently, a Burmese court sentenced her to an additional 3 years of confinement on trumped up charges of violating the terms of her house arrest.

Yet despite the regime's best efforts, it has failed to stifle her will and her call for free and democratic Burma.

And it has failed to stop her from inspiring thousands of her fellow citizens to take up her cause.

The report by Human Rights Watch reminds us that while Suu Kyi is the most well-known democracy activist, she is by no means alone. In fact, the report notes that there are now more than 2,100 political prisoners in Burma; there are 43 prisons holding political activists in Burma and 50 labor camps; and beginning in late 2008, closed Burmese courts sentenced more than 300 activists to prison terms of, in some cases, more than 100 years for speaking out against the government and forming organizations.

Among those profiled are Zargana, one of Burma's most famous comedians, actors, and human rights activists, who was arrested and sentenced to 59 years in prison for criticizing the

government's response to Cyclone Nargis; U Gambira, a young Buddhist monk who was sentenced to 68 years in prison including 12 years of hard labor for playing a key role in the 2007 demonstrations which became known as the Saffron Revolution; Ma Su Su Nway, a prominent labor rights activist who was sentenced to 12½ years in prison for criticizing the government during the 2007 demonstrations; and Min Ko Kaing, a 46-year-old activist who has spent 17 of the past 20 years in prison, most of it in solitary confinement, for his political beliefs.

At a time when the regime is intent on moving forward with new elections based on a constitution that was drafted behind closed doors and would entrench the military as the country's dominant political force, it is important for us to remember that there are those in Burma who have a different vision.

These brave activists deserve our admiration and respect. More importantly, they deserve to know that we stand in solidarity with them and we will not rest and we will not remain silent until they are free.

I urge my colleagues to read the report and to once again call on the ruling State Peace and Development Council to release all political prisoners and begin a true dialogue on national reconciliation in Burma.

## SAFE STREETS CAMPAIGN

Mrs. MURRAY. Mr. President, I wish to commemorate the 20th anniversary of the Safe Streets Campaign of Pierce County, WA.

Twenty years ago, Pierce County residents from all walks of life banded together to form the Safe Streets Campaign and to demonstrate the willpower and strength needed to take back their streets from a plague of drug- and gang-related violence and to improve the quality of life in Pierce County.

Over the next two decades, the Safe Streets Campaign has shown itself to be an effective citizen-led initiative to pressing community problems. It has organized over 250,000 residents throughout Pierce County to fight crime, substance abuse, and youth violence in partnership with local law enforcement, State and local government, community-based organizations, faith-based groups, businesses, Native American Tribes, schools, and youth.

For example, Safe Streets established the Youth Leading Change Initiative in Pierce County high schools to empower young people to lead efforts to address the problems of youth substance abuse and violence. These young people engage their peers and community members in a number of valuable ways. They march against violence. They work to reduce blight in high-risk communities. They engage in peer education on the dangers of youth substance abuse. And they work with Washington State lawmakers to craft innovative solutions to these social problems. I have met with many of these young leaders and been impressed with the work that they do.

The proactive community and neighborhood involvement by the Safe Streets Campaign and similar organizations improves the quality of life for families and helps provide a safe environment to raise and educate our children. Its work has led to lower crime rates, reduced 911 emergency calls, helped close thousands of drug houses, sustained ongoing graffiti removal, supported recovering addicts and healthy neighborhoods, and helped youth involved with gangs choose a life of hope rather than a life of crime.

Safe Streets is a shining example of citizen initiative where communities stand up for themselves and take their neighborhoods back from the control of drug pushers, gang members, and associated violence. It has been sustained over the past 20 years through a mix of State, Federal, and local government funding and corporate and individual donor support.

I commend the staff, founders, board of directors, and volunteers of the Safe Streets Campaign of Pierce County for the dedication that has fueled this community initiative from the beginning, and I congratulate them as they celebrate 20 years of commitment to safe communities.

## SMALL BUSINESS ADMINISTRATION NOMINATIONS

Ms. LANDRIEU. Mr. President, today the Senate Committee on Small Business and Entrepreneurship favorably reported out the President's nominations of Dr. Winslow Lorenzo Sargeant to serve as chief counsel for advocacy and Ms. Peggy Elizabeth Gustafson to serve as inspector general of the Small Business Administration.

I am pleased that President Obama nominated such talented individuals to top positions at the SBA. Their confirmation will make the SBA much closer to having an exceptional leadership team in place.

As chief counsel for advocacy, Dr. Winslow Sargeant will bring a unique background to this very important position. With a Ph.D. from the University of Wisconsin-Madison in electrical engineering and a background as a very successful small business owner, he is not only well-educated, but well-educated about the challenges facing small businesses today.

He is currently the managing director of Venture Investors, a Midwest venture capital company with a concentration on starting up health care and technology companies. From 2001 to 2005, he served as a program manager for SBIR in electronics at the National Science Foundation. He has also worked at IBM as a staff engineer, at AT&T as technical staff, and as an associate adjunct professor at the University of Pennsylvania.

As the current general counsel for Senator CLAIRE MCCASKILL, whose interest in and knowledge of oversight issues is well known and respected in the Senate, Ms. Peggy Gustafson is an excellent nominee for inspector general of the SBA. She received her J.D. at Northwestern University and, before working as general counsel for Senator MCCASKILL here in Washington, Ms. Gustafson worked for her when the Senator was the prosecutor for Jackson County, MO, as well as when she was the Missouri State Auditor.

With capable leaders like Dr. Sargeant and Ms. Gustafson at the helm, we are hopeful the agency will be more ready than ever to play an important role in assisting small businesses as they continue to lead this country to an economic recovery. We look forward to working with them and to a new era for the SBA and American small businesses.

## REMEMBERING BELLE ACKERMAN LIPMAN

Mr. LEVIN. Mr. President, I wish today to remember the life of an extraordinary woman.

Belle Ackerman Lipman passed away at her home in Memphis, TN, on Aug. 17, 2009, in the 100th year of her remarkable life. A beloved wife, mother, grandmother, great-grandmother, and friend, Mrs. Lipman is a model for all of us who hope to live life fully and for all the years granted us.

A daughter of Romanian immigrants, Belle Ackerman was born in 1910 in Philadelphia, where her parents owned a general store. Just five blocks away from the store lived young Mark Lipman, who would become the love of Belle's life. The businessman and his young wife moved not long after their marriage to Little Rock, AR, where Mark saw new business opportunities, and then in 1958 to Memphis, TN. There, Belle Lipman became a pillar of the community. Her work in civic affairs was extensive, including service as a trustee with the Simon Wiesenthal Center. She was president of the Little Rock chapter of Hadassah, the worldwide Jewish women's organization, among a host of endeavors in charity, service, and the arts.

But it is not those remarkable accomplishments alone that made Belle Lipman such a special woman. As years passed, her zest for life, for new experience, and to learn of new cultures grew apace. A lifelong interest in travel made her one of the first American citizens to travel to China after diplomatic relations with that Nation were reestablished in 1979. Her travels took her to a hot-air balloon over the plains of Kenya, the rivers of the Amazon, and the ancient cities of Peru. She rode the Orient Express at the age of 87. At 92, she crossed the Arctic Circle. At 95, she visited the mountains of Tibet and a host of other places. At her 95th birthday party, she celebrated the only way she knew how, with verve by dancing the Charleston.

Belle Lipman was a model—a model of how to live life to the fullest and

how a thirst for new experiences can fill a lifetime. My wife Barbara and I send our condolences to her beloved children, her son Ira and her daughter Carol, her grandchildren, and her great-grandchildren. We do so with the sure knowledge that the joy of Belle Lipman's life will over time ease the pain of her passing, leaving the warmest of memories to sustain family and friends.

## ADDITIONAL STATEMENTS

### COMMENDING GEORGE OTT

● Mr. DORGAN. Mr. President, a friend of mine, Walt Jacobs, from New England, ND, writes a column in his local newspaper titled ''Around The Pot.'' On August 28, 2009, he wrote a wonderful column about a courageous man named George Ott and his service to our country as an Air Force pilot in World War II. I wanted to share it with my colleagues. The column is as follows:

Today, as I sit with pen in hand, my thoughts are with a good friend, George Ott, who is spending his days at Hawk's Point in retirement in Dickinson. My first recollection of George is when he was in high school at St. Mary's with his sister, Clara in the 30's, a time when there were no crops, low prices, land was blowing and the future was dismal for everyone.

Crops were better in 1939, and we experienced good weather and a prosperous economy in the early 40's was enhanced by the war in Europe and the United States entry to the conflict in December of 1941. George interrupted his college and volunteered for duty in the Air Force in 1940 and became a bomber pilot. George bombed a Japanese submarine off the west coast of Washington, one of the first of the war. Stationed in England in 1943, his bomber was chosen to fly a secret mission for the State Department which directed him to fly with a courier to Accru, Africa and from there to Brazil, South America and then to complete the secret mission to Washington, D.C. The three-day trip was met in Washington and the military cover and secrecy convinced the pilot of the mission's urgency and its military importance.

He was sent back to England and continued the daylight missions over Europe as squadron commander until Black Friday, the last day of the day-light raids over Germany until the Air Force could provide aerial cover for the bombers. Until that raid on the 14th day of October, the air cover from England had to turn back over Germany when they reached their fuel limit, leaving the bombers to provide their own firepower for defense. As the planes were shot down from their defense formation, the squadrons were left to the mercy of the German planes. On that Friday, George left England, commander of the bomber group to bomb the ball-bearing factory at Schweinfurt. He, in his leading plane, was hit by defensive German antiaircraft fire before he reached the target and fell out of formation. (As were 87 percent of the American bombers shot down on that day on the Schweinfurt raid.) He continued at a slower pace with the loss of motors, but dropped his bombs and turned his plane for home in England. George determined it was best for the crew to bail out of the lumbering air craft over northern Germany, but he continued with one of the four engines running and hoped to make the coast of England. As he flew the plane alone, he spotted a Messerschmitt fighter alongside and gave George a friendly thumbs down sign and George left his plane. As he floated to the earth in his parachute, he saw his bomber shot from the sky.

George landed in a potato patch and as he scrambled to bury his chute, he heard a sound behind him and there stood a civilian home-guard with a pointed gun. George said the bore looked big enough to crawl into with the statement, ''For you the krieg bist fertig.'' (For you the war is over.)

As George walked around his prison camp he reached through the fence and daily brought the tufts of grass to his stalag and replanted the grass until he had a lawn by his barracks, 4x8. As that farm boy spent his time in his prison, the spirit of his farming heritage wanted to lie on the grass while waiting for the war to end.

So, today George is waiting once again, but he is not lying on the grass by his stalag in enemy land, but at Hawk's Point with the comfort he deserves so much.

So on Wednesday we will honor George on his 90th birthday. Thank you, George, a good and honorable servant.●

### 2009 SECRETARY OF DEFENSE EMPLOYER SUPPORT FREEDOM AWARD

● Ms. LANDRIEU. Mr. President, as we focus on improving the workplace and enhancing benefits for employees throughout the Nation, I would like to take this opportunity to highlight an outstanding group of law enforcement officers from Louisiana.

For the last 8 years, our country has been at war. Thousands of Americans left their usual workplace to honor their commitment to the armed services. America's employers have done an outstanding job of supporting our National Guard and Reserve members both in and outside the workplace. Currently, almost one-half of the U.S. military is comprised of National Guard and Reserve members. This support for our ''Citizen Soldiers'' allows them to continue their invaluable service to our country.

Each year Guard and Reserve members and their families nominate employers who have gone above and beyond in their support of military employees. This year, Sheriff Andy Brown and the Jackson Parish Sheriff's Department in Jonesboro, LA, have been selected as one of the 15 employers to receive the 2009 Secretary of Defense Employer Support Freedom Award. This award is the highest recognition given by the U.S. Government to employers for their outstanding support of employees who serve in the National Guard and Reserve. As an added honor, Sheriff Brown has been selected as one of the attendees to speak on behalf of these 15 recipients at the 14th Annual Awards Ceremony on September 17.

The Jackson Parish Sheriff's Department led by Sheriff Andy Brown was selected out of more than 3,200 nominees from across the Nation. Sheriff Brown and his employees went beyond the call of duty to extend employment support to employees who have volunteered to serve in our Nation's Armed Forces.

The Jackson Parish Sheriff's department employs seven part-time servicemembers. Among the benefits that the Jackson Parish Sheriff's department provides its National Guard and Reserve employees is full pay for servicemembers called away on duty for more than 12 months. The department also provides continuous health care, dental, and life insurance benefits to ensure coverage and support for servicemembers' families while the member is on active duty.

Sheriff Brown has fostered a supportive work environment for servicemembers by requiring every supervisor and employee in his department to thoroughly understand and implement the servicemember rights outlined in the Uniform Services Employment and Reemployment Act. His positive attitude and accommodation for our citizen soldiers demonstrates an unwavering support that exemplifies the spirit of the Employer Support Freedom Award.

I offer my heartfelt thanks and congratulations to Sheriff Brown and the entire Jackson Parish Sherriff's Department. The Employer Support Freedom Award is a tremendous honor and a fitting recognition of Sheriff Brown's commitment to our troops and his service to Louisiana and our Nation.●

### COMMENDING CAROLE ROPER PARK VAUGHAN

● Mrs. MCCASKILL. Mr. President, I wish to pay tribute to my friend and former colleague, as well as an outstanding woman of service, Carole Roper Park Vaughan. From 1977 through 1994, Carole represented the 51st District of Missouri, which includes the home of President Harry S. Truman, in the Missouri House of Representatives. On September 18, Carole will celebrate her 70th birthday, and I just want to take a few minutes today to honor her and the contribution she made to so many lives in Missouri.

Carole was born to Rudy and Rose Roper of Sugar Creek, MO, both children of Croatian emigrants. Carole's father served as the mayor of Sugar Creek for 40 years, from 1940 until 1980, so she came by her political acumen naturally. In fact, while other little girls were playing with dolls, stuffed animals, or having teas, Carole was with her father learning the art of making a deal, a skill she would later take with her to the State legislature.

Though politics was in her blood, her dedication to public service did not begin with elected office. After graduating from the University of Missouri-Kansas City with a bachelor of arts degree in education, Carole pursued a teaching career in the Kansas City school district. For 12 years, she taught elementary education in some of the poorest school districts in the Kansas City area. It was here that she fully realized the importance of community involvement. Her students

were faced with everyday challenges she had never experienced before, and there was a real need for change. As a teacher, however, Carole felt she was limited in how she could effect the meaningful change that was desperately needed in her community.

Despite her pedigree and desire to make a difference, Carole's ascension into public office happened almost by accident. When the current legislator in her district suddenly became ill and died, those in the community who were impressed by her interest in changing the status quo encouraged her run. She filed for office on the day of the filing deadline, and in 1976, she was elected to represent the 51st District of Missouri. Thankfully, for the people of Missouri, there was nothing accidental about her approach to legislating. Hailing from the home of Harry Truman, Carole had a real no-nonsense style about her, and she could get things done.

During her 18 years as a member of the Missouri House of Representatives, Carole sponsored 93 bills, many of which became law, including the largest insurance reform bill in Missouri history. But what Carole was most known for was her vigorous pursuit to improve the way the State of Missouri delivered health and mental health care. In 1981, she became the first woman in Missouri history to chair a standing appropriations committee, and for 13 years Carole reigned over the Committee on Appropriations for Health and Mental Health. At the time she was appointed to this position, Missouri was headed into a recession, and there was a desperate need to cut health services. Yet Carole was able to make the necessary changes without sacrificing services. In fact, throughout her tenure as chair of the committee, Missouri reduced overall costs of mental health care programs while improving the services it provided.

Carole's dedication to those suffering from mental illness, developmental disabilities, head injuries, and substance abuse was truly unparalleled. While her work with community mental health centers or substance abuse programs seldom made the front page, she worked tirelessly in the pursuit of better treatment for these special citizens. The result of her dedication was the transformation of a badly broken mental health system into a community-based approach that provided real options for some of our most vulnerable.

In 1995, Carole retired from the Missouri House of Representatives, but her commitment to her community and the democratic process has continued. She has remained dedicated to improving services for the mentally ill, substance abusers, and victims of domestic violence. She has worked with Thank You Walt Disney Inc. to help restore Walt Disney's downtown Kansas City Studio. She has worked tirelessly to elect democratic candidates who embody the same steadfast dedication to effect change that she had during her time in public service, including devoting countless hours on the phones and going door-to-door for then Presidential candidate Barack Obama. Once again, her hard work paid off.

Mr. President, I ask the Senate to join me in wishing Carole Roper Park Vaughan a very happy 70th birthday. She has been a remarkable servant to the citizens of the State of Missouri and I am grateful to call her my friend.●

## COMMENDING EDGECOMB POTTERS

● Ms. SNOWE. Mr. President, Midcoast Maine is a special place for Mainers and tourists alike. With its beautiful harbors and quintessential Maine villages, the region is a remarkable crosssection of our State. Nestled on route 27 in the heart of this striking area is Edgecomb Potters, a veritable gem in Maine's art world. I rise today to recognize this superb Maine company and the innovative spirit of its founders.

Located in the town of Edgecomb, Edgecomb Potters was started in a small one-room schoolhouse by owners Richard and Chris Hilton in 1976. Before starting the business, Richard had been planning on entering the broadcasting industry, while Chris was an art teacher. Since that time, Edgecomb Potters has crafted over 1.3 million unique pieces of gorgeous pottery, and it averages 200,000 pieces each year. Additionally, the company has expanded to its present day 28-acre complex, where it has eight kilns, and added satellite retail locations in Freeport and Portland. Edgecomb Potters has also grown to a team of more than 30 employees in that time, and over 150,000 people visit the company's three locations each season. Beyond its own pottery, Edgecomb's stores showcase the work of over 400 different artisans, many of them Mainers, specializing in jewelry, sculpture, and glass.

The Hiltons work together on each design. Richard Hilton serves as Edgecomb's master potter, studying the organic composition and history of ceramic glazes from all over the world, and Chris lends her extensive art background to the output of beautiful pieces of pottery. They are consistently producing new and creative glazes and patterns which lend a unique rarity to the company's many pieces. All glazes and porcelains are made on site with glazes named by the colors they evoke, such as Lady Slipper Pink, Apple Green, and Honey Green. In addition to these inventive colors, the potters frequently add golden flecks, shimmering crystals, and flowing artistic tones to give a distinctive finish to each piece.

During the company's 33-year history, Edgecomb Potters has rightfully gained significant national recognition. The Hiltons' passion for glaze development has led them to be considered national leaders in this field, and has propelled their company to be recognized by the Boston Globe, Ceramics Monthly, American Style and numerous other publications. Edgecomb Potters also garnered international attention when trade representatives from Taiwan purchased one of their large vases for that country's president in 2001. The vase was made using Kyoto Forest, a unique glaze Mr. Hilton concocted based on a 17th century Chinese glaze. The company has also been named one of America's ''Best of the Road'' companies by Rand McNally. The global atlas producer lists Edgecomb Potters as ''one of the most highly acclaimed art potteries in America,'' and cites the ''one-of-a-kind'' pottery as an incentive for people to visit this extraordinary facility.

Edgecomb Potters continues to expand because of the Hiltons' constant and abiding passion for art and pottery, and the number of new customers they continuously attract worldwide is impressive. Indeed, Edgecomb's presence in Maine's art scene has placed our State on the national map as a destination for lovers of stunning and matchless pottery. I congratulate Richard and Chris Hilton, and everyone at Edgecomb Potters, for their pioneering spirit, and offer my best wishes for their continued success.●

## MESSAGES FROM THE HOUSE

At 10:00 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that it has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 22. An act to amend title 5, United States Code, to reduce the amount that the United States Postal Service is required to pay into the Postal Service Retiree Health Benefits Fund by the end of fiscal year 2009.

H.R. 511. An act to authorize the Secretary of Agriculture to terminate certain easements held by the Secretary on land owned by the Village of Caseyville, Illinois, and to terminate associated contractual arrangements with the Village.

H.R. 940. An act to provide for the conveyance of National Forest System land in the State of Louisiana.

H.R. 1002. An act to adjust the boundaries of Pisgah National Forest in McDowell County, North Carolina.

H.R. 2947. An act to amend the Federal securities laws to make technical corrections and to make conforming amendments related to the repeal of the Public Utility Holding Company Act of 1935.

H.R. 3137. An act to amend title 39, United States Code, to provide clarification relating to the authority of the United States Postal Service to accept donations as an additional source of funding for commemorative plaques.

H.R. 3146. An act to make improvements to the FHA mortgage insurance programs of the Department of Housing and Urban Development, and for other purposes.

H.R. 3175. An act to direct the Secretary of Agriculture to convey to Miami-Dade County certain federally owned land in Florida, and for other purposes.

H.R. 3179. An act to amend the Emergency Economic Stabilization Act of 2008 to require the Special Inspector General for the Troubled Asset Relief Program to include the effect of the Troubled Asset Relief Program on

small businesses in the oversight, audits, and reports provided by the Special Inspector General, and for other purposes.

H.R. 3386. An act to designate the facility of the United States Postal Service located at 1165 2nd Avenue in Des Moines, Iowa, as the ''Iraq and Afghanistan Veterans Memorial Post Office''.

H.R. 3527. An act to increase the maximum mortgage amount limitations under the FHA mortgage insurance programs for multi-family housing projects with elevators and for extremely high-cost areas.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 95. Concurrent resolution recognizing the importance of the Department of Agriculture Forest Service Experimental Forests and Ranges.

ENROLLED BILL SIGNED

At 7:06 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1243. An act to provide for the award of a gold medal on behalf of Congress to Arnold Palmer in recognition of his service to the Nation in promoting excellence and good sportsmanship in golf.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 511. An act to authorize the Secretary of Agriculture to terminate certain easements held by the Secretary on land owned by the Village of Caseyville, Illinois, and to terminate associated contractual arrangements with the Village; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 940. An act to provide for the conveyance of National Forest System land in the State of Louisiana; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 1002. An act to adjust the boundaries of Pisgah National Forest in McDowell County, North Carolina; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 2947. An act to amend the Federal securities laws to make technical corrections and to make conforming amendments related to the repeal of the Public Utility Holding Company Act of 1935; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3137. An act to amend title 39, United States Code, to provide clarification relating to the authority of the United States Postal Service to accept donations as an additional source of funding for commemorative plaques; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3146. An act to make improvements to the FHA mortgage insurance programs of the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3175. An act to direct the Secretary of Agriculture to convey to Miami—Dade County certain federally owned land in Florida, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry .

H.R. 3179. An act to amend the Emergency Economic Stabilization Act of 2008 to require the Special Inspector General for the Troubled Asset Relief Program to include the effect of the Troubled Asset Relief Program on small businesses in the oversight, audits, and reports provided by the Special Inspector General, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3386. An act to designate the facility of the United States Postal Service located at 1165 2nd Avenue in Des Moines, Iowa, as the ''Iraq and Afghanistan Veterans Memorial Post Office''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3527. An act to increase the maximum mortgage amount limitations under the FHA mortgage insurance programs for multi-family housing projects with elevators and for extremely high-cost areas; to the Committee on Banking, Housing, and Urban Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 95. Concurrent resolution recognizing the importance of the Department of Agriculture Forest Service Experimental Forests and Ranges; to the Committee on Agriculture, Nutrition, and Forestry.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2968. A communication from the Acting Chief of the Child Nutrition Division, Food and Nutrition Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''School Food Safety Inspections'' (RIN0584–AD64) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2969. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Boscalid; Pesticide Tolerances'' (FRL No. 8431–1) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2970. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Ametryn, Amitraz, Ammonium Soap Salts of Higher Fatty Acids, Bitertanol, Coppers, et al.; Tolerance Actions'' (FRL No. 8431–7) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2971. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–8089)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–2972. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Sudanese Sanctions Regulations'' (31 CFR Part 538) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–2973. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a report entitled ''Assessment of Demand Response and Advanced Metering''; to the Committee on Energy and Natural Resources.

EC–2974. A communication from the Assistant Secretary of Land and Minerals Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Outer Continental Shelf—Technical Corrections'' (RIN1010–AD52) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Environment and Public Works.

EC–2975. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries—Technical Correction'' (FRL No. 8954–3) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Environment and Public Works.

EC–2976. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''EPAAR Prescription and Clauses—Government Property—Contract Property Administration'' (FRL No. 8956–4) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Environment and Public Works.

EC–2977. A communication from the Secretary of Health and Human Services and the Attorney General, transmitting, pursuant to law, an annual report relative to the Health Care Fraud and Abuse Control Program for fiscal year 2008; to the Committee on Finance.

EC–2978. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Physician Group Practice Demonstration Evaluation Report''; to the Committee on Finance.

EC–2979. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled ''The Department of Labor's 2008 Findings on the Worst Forms of Child Labor''; to the Committee on Health, Education, Labor, and Pensions.

EC–2980. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled ''The Department of Labor's List of Goods Produced by Child Labor or Forced Labor''; to the Committee on Health, Education, Labor, and Pensions.

EC–2981. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Audit of Advisory Neighborhood Commission 8C for Fiscal Years 2007 through 2009, as of March 31, 2009''; to the Committee on Homeland Security and Governmental Affairs.

EC–2982. A communication from the Solicitor, Federal Labor Relations Authority, transmitting, pursuant to law, a report relative to action on a nomination for the position of General Counsel, Federal Labor Relations Authority received in the Office of the President of the Senate on September 10, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–2983. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the semi-annual report of the Attorney General relative to Lobbying Disclosure Act enforcement actions taken for the period beginning on July 1, 2008; to the Committee on the Judiciary.

EC–2984. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Low Altitude Area Navigation Route (T-Route); Rockford, Illinois'' ((Docket No. FAA–2008–1114) (Airspace Docket No. 08–AGL–17)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2985. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; Grand Prairie, Texas'' ((RIN2120–AA66)(9–3/9–8/0363/ASW–11)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2986. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; Arlington, Texas'' ((RIN2120–AA66)(9–3/9–8/0362/ASW–10)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2987. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace and Amendment of Class E Airspace: North Bend, Oregon'' ((RIN2120–AA66)(8–24/8–26/0006/ANM–1)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2988. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Quinhagak, Alaska'' ((RIN2120–AA66)(9–3/9–3/0763/AAL–22)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2989. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Standards; Aircraft Engine Standards Overtorque Limits'' (RIN2120–AJ06) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2990. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146–100A and 146–200A Series Airplanes'' ((RIN2120–AA64)(9–10/9–2/0432/NM–168)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2991. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations'' [MB Docket No. 07–172) as received during adjournment of the Senate in the Office of the President of the Senate on August 19, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2992. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment Section 73.202(b), Table of Allotments, FM Broadcast Stations (Batesville, Texas)'' [MB Docket No. 08–227) received in the Office of the President of the Senate on September 8, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2993. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Television Broadcasting Services (Ann Arbor, Michigan)'' [MB Docket No. 09–118) received in the Office of the President of the Senate on September 8, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2994. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Television Broadcasting Services (Hutchinson and Wichita, Kansas)'' [MB Docket No. 09–129) received in the Office of the President of the Senate on September 8, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2995. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Designation of Critical Habitat for Endangered Distinct Population Segment of Smallmouth Sawfish'' (RIN0648–AV74) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2996. A communication from the Director, Census Bureau, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Foreign Trade Regulations (FTR): Eliminate the Social Security Number (SSN) as an Identification Number in the Automated Export System (AES)'' (RIN0607–AA48) as received during adjournment of the Senate in the Office of the President of the Senate on August 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2997. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Final Amendment Fee Rule'' (RIN3084–AA98) received in the Office of the President of the Senate on September 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2998. A communication from the Acting Division Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''IP–Enabled Services'' ((WC Docket No. 04–36)(FCC09–40)) as received during adjournment of the Senate in the Office of the President of the Senate on August 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2999. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations for Marine Events; Port Huron to Mackinac Island Sail Race'' ((RIN1625–AA08)(Docket No. USG–2009–0659)) as received during adjournment of the Senate in the Office of the President of the Senate on August 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3000. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation, Fran Schnarr Open Water Championships, Huntington Bay, NY' ((RIN1625–AA08) (Docket No. USG–2009–0520)) as received during adjournment of the Senate in the Office of the President of the Senate on August 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3001. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Naval Training August and September, San Clemente Island, CA' ((RIN1625–AA00) (Docket No. USG–2009–0456)) as received during adjournment of the Senate in the Office of the President of the Senate on August 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3002. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; AVI September Fireworks Display, Colorado River, Laughlin, NV' ((RIN1625–AA00) (Docket No. USG–2008–1262)) as received during adjournment of the Senate in the Office of the President of the Senate on August 20, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3003. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–100, –100B, –100B SUD, –200B, and –300 Series Airplanes; and Model 747SP and 747SR Series Airplanes' ((RIN2120–AA64) (ae /''/8–27/8–27/0477/NM–191)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3004. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Air Tractor, Inc. Models AT–802 and AT–802A Airplanes' ((RIN2120–AA64)(8–27/8–27/0489/CE–025)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3005. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA), Model CN–235, CN–235–100, CN–235–200, and CN—235–300 Airplanes' ((RIN2120–AA64)(8–27/8–27/0386/NM–184)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3006. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 Airplanes' ((RIN2120–AA64)(8–27/8–27/0622/CE–034)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3007. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Model F.27 Mark 050 and F.28 Mark 0100 Airplanes'' ((RIN2120–AA64)(8–27/8–27/0496/NM–139)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3008. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled ''CFM International, S.A. CFM56–5B1/P; –5B2/P; –5B3/P; –5B3/P1; –5B4/P; –5B4/P1; –5B5/P; –5B6/P; –5B7/P; –5B8/P; 5B9/P; –5B1/3; –5B2/3; –5B3/3; –5B4/3; –5B5/3; –5B6/3; –5B7/3; –5B8/3; –5B9/3; –5B3/3B1; and –5B4/3B1 Turbofan Engines'' ((RIN2120–AA64)(8–27/8–27/0174/NE—03)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3009. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes'' ((RIN2120–AA64) (9–10/9–9/0526/NM–029)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3010. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Airplanes'' ((RIN2120–AA64) (9–10/9–9/0563/NM–180)) received in the Office of the President of the Senate on September 20, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3011. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes'' ((RIN2120–AA64) (9–10/9–9/0515/NM–071)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3012. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce plc. (RR) RB211 Trent 900 Series Turbofan Engines'' ((RIN2120–AA64)(9–10/9–9/0771/NE–14)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3013. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, –900 and –900ER Series Airplanes'' ((RIN2120–AA64)(9–10/9–9/0212/NM–122)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3014. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 707 Airplanes, and Model 720 and 720B Series Airplanes' ((RIN2120–AA64)(9–10/9–9/0476/NM–188)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3015. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; ATR Model ATR42 and Model ATR72 Airplanes' ((RIN2120–AA64)(9–10/9–9/0786/NM–145)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3016. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330–300, A340–200, and A340–300 Series Airplanes' ((RIN2120–AA64)(9–10/9–9/0264/NM–174)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3017. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 Airplanes' ((RIN2120–AA64)(9–10/9–9/0465/NM–244)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3018. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; 328 Support Services GmbH Dornier Model 328–100 and –300 Airplanes' ((RIN2120—AA64)(9–10/9–9/0522/NM–127)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3019. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–103, B4–203, and B4–2C Airplanes' ((RIN2120–AA64)(9–10/9–9/0397/NM—023)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3020. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330–200 and –300 Series Airplanes and Model A340–200 and –300 Series Airplanes' ((RIN2120–AA64)(9–10/9–9/0381/NM–008)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3021. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes' ((RIN2120–AA64)(9–10/9–8/0787/NM–090)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3022. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Agusta S.p.A. Model AB412 and AB412EP Helicopters' ((RIN2120–AA64)(9–10/9–4/0804/SW–56)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

EC–3023. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Models A330–200 and –300 Series Airplanes, Model A340–200 and –300 Series Airplanes, and Model A340–541 and –642 Airplanes' ((RIN2120–AA64)(9–10/9–3/0781/NM—111)) received in the Office of the President of the Senate on September 10, 2009; to the Committee on Commerce, Science, and Transportation.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–78. A joint resolution adopted by the Alaska State Legislature urging the United States Senate to ratify the United Nations Convention on the Law of the Sea; to the Committee on Foreign Relations.

HOUSE JOINT RESOLUTION NO. 22

Whereas in August 2007, Russia sent two small submarines into the Arctic Ocean to plant that nation's flag under the North Pole to support its territorial claim that its continental shelf extends to the North Pole; and

Whereas Denmark is exploring whether a mountain range under the Arctic Ocean is connected to Greenland, a territory of Denmark; and

Whereas Canada is considering the establishment of military bases to protect its claim to the Northwest Passage; and

Whereas the actions taken by Russia, Denmark, and Canada have been exercised under the United Nations Convention on the Law of the Sea; and

Whereas the United Nations Convention on the Law of the Sea permits member nations to claim an exclusive economic zone out to 200 nautical miles from shore, with an exclusive sovereign right to explore, manage, and develop all living and nonliving resources, including deep sea mining, within that exclusive economic zone; and

Whereas the United States Arctic Research Commission estimates that the United Nations Convention on the Law of the Sea would permit the United States to lay claim beyond the present 200–mile exclusive economic zone to an area of the northern seabed off Alaska that is equal in size to California; and

Whereas 155 nations have ratified the United Nations Convention on the Law of the Sea, including all allies of the United States and the world's maritime powers; and

Whereas ratification of the current form of the United Nations Convention on the Law of the Sea has been pending before the United States Senate since 1994, and hearings on the treaty were held by the United States Senate Committee on Foreign Relations in 1994, 2003, and 2004, and on September 27, 2007, and October 4, 2007; and

Whereas, despite favorable reports by the United States Senate Committee on Foreign Relations regarding the United Nations Convention on the Law of the Sea in 2004 and 2007, the United States Senate has yet to vote on the ratification of the Convention; and

Whereas the United States, with 1,000 miles of Arctic coast off of the State of Alaska, remains the only Arctic nation that has not ratified the United Nations Convention on the Law of the Sea; and

Whereas, until the United States Senate votes to ratify the United Nations Convention on the Law of the Sea, the United States may not have the authority to promote its claims to an extended area of the continental shelf, refute the claim of authority by other nations to exercise greater control over the Arctic, or take a permanent seat on the International Seabed Authority Council; and

Whereas, until the United States ratifies the United Nations Convention on the Law of the Sea, the United States cannot participate in deliberations to amend provisions of the Convention that relate to the

(1) oil, gas, and mineral resources in the Arctic Ocean and other northern waters;

(2) conduct of essential scientific research in the world's oceans;

(3) right of the United States to the use of the seas;
(4) rules of navigation;
(5) effect of the use of the seas on world economic development; and
(6) environmental concerns related to the use of the seas; and

Whereas the United Nations Convention on the Law of the Sea will have an important and beneficial effect on virtually all states, both coastal and noncoastal, because the United States is heavily dependent on the use, development, and conservation of the world's oceans and their resources; and

Whereas the United Nations Convention on the Law of the Sea will not interfere with the intelligence-gathering efforts of the United States or the navigational freedom of the United States Navy; and

Whereas ratification of the United Nations Convention on the Law of the Sea has wide bipartisan support; be it

*Resolved,* That the Alaska State Legislature urges the United States Senate to ratify the United Nations Convention on the Law of the Sea.

Copies of this resolution shall be sent to the Honorable Joseph R. Biden, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable John F. Kerry, Chair of the U.S. Senate Committee on Foreign Relations; the Honorable Richard G. Lugar, ranking Republican on the U.S. Senate Committee on Foreign Relations; the Honorable Lisa Murkowski and the Honorable Mark Begich, U.S. Senators, members of the Alaska delegation in Congress; and all other members of the United States Senate.

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POM–79. A joint resolution adopted by the Alaska State Legislature relative to claiming sovereignty for the state under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States; to the Committee on the Judiciary.

JOINT RESOLUTION

Whereas the Tenth Amendment to the Constitution of the United States reads, ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people''; and

Whereas the Tenth Amendment defines the total scope of federal power as being that specifically granted by the Constitution of the United States and no more; and

Whereas some federal actions weaken states' rights protected by the Tenth Amendment to the Constitution of the United States; and

Whereas the Tenth Amendment assures that we, the people of the United States of America and each sovereign state in the Union of States, now have, and have always had, rights the federal government may not usurp; and

Whereas art. IV, sec. 4, Constitution of the United States, reads, ''The United States shall guarantee to every State in this Union a Republican Form of Government,'' and the Ninth Amendment to the Constitution of the United States reads, ''The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people''; and

Whereas the United States Supreme Court has ruled in New York v. United States, 112 S.Ct. 2408 (1992), that the United States Congress may not simply commandeer the legislative and regulatory processes of the states; and

Whereas all states, including Alaska, find themselves regularly facing proposals from the United States Congress that weaken states' rights protected by the Tenth Amendment; be it

*Resolved,* That the Alaska State Legislature hereby claims sovereignty for the state under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States; and be it further

*Resolved,* That this resolution serves as Notice and Demand to the federal government to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers.

Copies of this resolution shall be sent to the Honorable Barack Obama, President of the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Nancy Pelosi, Speaker of the U.S. House of Representatives; the Honorable Lisa Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; all other members of the 111th United States Congress; the presiding officers of the legislatures of each of the other 49 states; and the governors of each of the other 49 states.

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POM–80. A joint resolution adopted by the Alaska State Legislature urging Congress to provide a means for consistently sharing, on an ongoing basis, revenue generated from oil and gas development on the Outer Continental Shelf with all coastal energy-producing states to ensure that those states develop, support, and maintain necessary infrastructure and preserve environmental integrity; to the Committee on Energy and Natural Resources.

JOINT RESOLUTION

Whereas there are presently 697 active oil and gas leases off Alaska's coast, covering more than 1,500,000 hectares; and

Whereas the United States Department of the Interior, Minerals Management Service, estimates there are nearly 27,000,000,000 barrels of oil and 132,000,000,000,000 cubic feet of natural gas that are technically recoverable offshore of Alaska; and

Whereas responsible oil and gas development in federal waters off Alaska's coast would significantly decrease reliance by the United States on foreign oil and gas, making the United States more energy independent and enhancing our national security; and

Whereas, under the Mineral Lands Leasing Act of 1920, the federal government shares with the states 50 percent of revenue from mineral production on federal land within each state's boundaries; and

Whereas the shared mineral production revenue is distributed to the states automatically, outside of the budget process, and is not subject to appropriation; and

Whereas, other than in water immediately adjacent to a state's coastline, there is not a similar authority for the federal government to share federal oil and gas revenue generated on the outer continental shelf with adjacent coastal states, despite the vital contribution made by those states to our nation's energy, economic, and national security needs in support of production from the outer continental shelf; and

Whereas the states that sustain this critical energy production and development deserve a share of the revenue generated because they provide infrastructure to support offshore operations and because of the environmental effects and other risks associated with oil and gas development on the outer continental shelf; and

Whereas, under the Gulf of Mexico Energy Security Act of 2006, the federal government recognized the contributions made by Alabama, Louisiana, Mississippi, and Texas to national security and agreed to give them 37.5 percent of revenue from oil and gas development in newly leased federal waters in the Gulf of Mexico; and

Whereas other coastal states, including Alaska and California, also support and should receive, on a regular and ongoing basis, a fair share of revenue generated through development on the outer continental shelf as compensation and reward for their contributions to the nation's energy supply, security, and economy; and

Whereas, since statehood, oil and gas lease sales from the outer continental shelf off Alaska's coast have generated millions of dollars in revenue for the federal government; and

Whereas the February 2008 lease sale in the Chukchi Sea generated an additional $2,600,000,000 in revenue for the federal government; be it

*Resolved,* That the Alaska State Legislature supports responsible development of the oil and gas resources in federal waters offshore of Alaska's coast as a means to ensure energy independence, security for the nation, and jobs for Alaskans; and be it further

*Resolved,* that the Alaska State Legislature urges the United States Congress to provide a means for consistently sharing, on an ongoing basis, revenue generated from oil and gas development on the outer continental shelf with all coastal energy-producing states to ensure that those states develop, support, and maintain necessary infrastructure and preserve environmental integrity.

Copies of this resolution shall be sent to the Honorable Barack Obama, President of the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Ken Salazar, United States Secretary of the Interior; the Honorable Nancy Pelosi, Speaker of the U.S. House of Representatives; the Honorable Steny H. Hoyer, Majority Leader of the U.S. House of Representatives; the Honorable John Boehner, Minority Leader of the U.S. House of Representatives; the Honorable Harry Reid, Majority Leader of the U.S. Senate; the Honorable Mitch McConnell, Minority Leader of the U.S. Senate; the Honorable Jeff Bingaman, Chair of the U.S. Senate Committee on Energy and Natural Resources; the Honorable Lisa Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and all other members of the 111th United States Congress.

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POM–81. A joint resolution adopted by the Alaska State Legislature urging Congress to pass legislation to open the coastal plain of the Arctic National Wildlife Refuge to oil and gas exploration, development, and production, and that the Alaska State Legislature is adamantly opposed to further wilderness or other restrictive designation in the area of the coastal plain of the Arctic National Wildlife Refuge; to the Committee on Energy and Natural Resources.

JOINT RESOLUTION

Whereas in 16 U.S.C. 3142 (sec. 1002 of the Alaska National Interest Lands Conservation Act (ANILCA)), the United States Congress reserved the right to permit further oil and gas exploration, development, and production within the coastal plain of the Arctic National Wildlife Refuge; and

Whereas the oil industry, the state, and the United States Department of the Interior consider the coastal plain to have the highest potential for discovery of very large oil and gas accumulations on the continent of North America, estimated to be as much as 10,400,000,000 barrels of recoverable oil; and

Whereas the ''1002 study area'' is part of the coastal plain located within the North

Slope Borough, and many of the residents of the North Slope Borough, who are predominantly Inupiat Eskimo, are supportive of development in the ''1002 study area''; and

Whereas oil and gas exploration and development of the coastal plain of the refuge and adjacent land could result in major discoveries that would reduce our nation's future need for imported oil, help balance the nation's trade deficit, and significantly increase the nation's security; and

Whereas the state's future energy independence would be enhanced with additional natural gas production from the North Slope of Alaska, including what are expected to be significant gas reserves in the Arctic National Wildlife Refuge, and the development of those reserves would enhance the economic viability of the proposed Alaska Natural Gas Pipeline; and

Whereas domestic demand for oil continues to rise while domestic crude production continues to fall, with the result that the United States imports additional oil from foreign sources; and

Whereas development of oil at Prudhoe Bay, Kuparuk, Endicott, Lisburne, Ooguruk, and Milne Point has resulted in thousands of jobs throughout the United States, and projected job creation as a result of coastal plain oil development will have a positive effect in all 50 states; and

Whereas Prudhoe Bay production is declining; and

Whereas the Trans Alaska Pipeline System, a transportation facility that is a national asset and that would cost billions of dollars to replace, would have its useful physical life extended for a substantial period if the additional reserves of recoverable oil from the coastal plain were produced; and

Whereas while new oil field developments on the North Slope of Alaska, such as Alpine, Northstar, Lisburne, Ooguruk, and West Sak, may temporarily slow the decline in production, only giant coastal plain fields have the theoretical capability of increasing the production volume of Alaska oil to a significant degree; and

Whereas opening the coastal plain of the Arctic National Wildlife Refuge now allows sufficient time for planning environmental safeguards, development, and national security review; and

Whereas the 1,500,000-acre coastal plain of the refuge makes up only eight percent of the 19,000,000-acre refuge, and the development of the oil and gas reserves in the refuge's coastal plain would affect an area of 2,000 acres or less, which is less than one-half of one percent of the area of the coastal plain; and

Whereas 8,900,000 of the 19,000,000 acres of the refuge have already been set aside as wilderness; and

Whereas the oil industry has shown at Prudhoe Bay, as well as at other locations along the Arctic coastal plain, that it is capable of conducting oil and gas activity without adversely affecting the environment or wildlife populations; and

Whereas the state will strive to ensure the continued health and productivity of the Porcupine Caribou herd and the protection of land, water, and wildlife resources during the exploration and development of the coastal plain of the Arctic National Wildlife Refuge; and

Whereas the oil and gas industry is developing directional drilling technology that will allow horizontal drilling in a responsible manner thereby minimizing the development footprint within the Arctic National Wildlife Refuge, and this directional drilling technology may be capable of drilling from outside of the boundaries of the 1002 study area; and

Whereas the oil industry is using innovative technology and environmental practices in the new field developments at Alpine and Northstar, and those techniques are directly applicable to operating on the coastal plain and would enhance environmental protection beyond traditionally high standards; and

Whereas the continued competitiveness and stability of the state and its economy require that the Alaska State Legislature consider national trends toward renewable energy development; and

Whereas the Alaska State Legislature encourages the use of revenue from any development in the Arctic National Wildlife Refuge for the development of renewable energy resources in the state; be it

*Resolved by the Alaska State Legislature,* That the United States Congress is urged to pass legislation to open the coastal plain of the Arctic National Wildlife Refuge to oil and gas exploration, development, and production, and that the Alaska State Legislature is adamantly opposed to further wilderness or other restrictive designation in the area of the coastal plain of the Arctic National Wildlife Refuge; and be it further

*Resolved*, That that activity be conducted in a manner that protects the environment and the naturally occurring population levels of the Porcupine Caribou herd on which the Gwich'in and other local residents depend, that uses directional drilling and other advances in technology to minimize the development footprint in the 1002 study area, and that uses the state's workforce to the maximum extent possible; and be it further

*Resolved*, That the Alaska State Legislature urges the United States Congress to pass legislation opening the 1002 study area for oil and gas development while continuing to work on measures for increasing the development and use of renewable energy technologies; and be it further

*Resolved,* That the Alaska State Legislature opposes any unilateral reduction in royalty revenue from exploration and development of the coastal plain of the Arctic National Wildlife Refuge and any attempt to coerce the State of Alaska into accepting less than the 90 percent of the oil, gas, and mineral royalties from the federal land in Alaska that was promised to the state at statehood.

Copies of this resolution shall be sent to the Honorable Barack Obama, President of the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Ken Salazar, United States Secretary of the Interior; the Honorable Nancy Pelosi, Speaker of the U.S. House of Representatives; the Honorable John Boehner, Minority Leader of the U.S. House of Representatives; the Honorable Harry Reid, Majority Leader of the U.S. Senate; the Honorable Mitch McConnell, Minority Leader of the U.S. Senate; the Honorable Jeff Bingaman, Chair of the Energy and Natural Resources Committee of the U.S. Senate; the Honorable Lisa Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and all other members of the 111th United States Congress.

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POM–82. A joint resolution adopted by the Alaska State Legislature urging Congress to preserve its right to enact a law providing for the environmentally responsible exploration and development of oil and gas resources in the Arctic National Wildlife Refuge by not passing any legislation that designates land in Area 1002 of the Arctic National Wildlife Refuge as wilderness; to the Committee on Energy and Natural Resources.

Whereas Area 1002 of the Arctic National Wildlife Refuge is considered the most promising onshore oil and gas prospect in the United States; and

Whereas the United States Department of the Interior estimates that there may be 10,400,000,000 recoverable barrels of oil and significant quantities of natural gas in the Arctic National Wildlife Refuge; and

Whereas the potentially enormous oil and gas prospects are located in Area 1002 of the Arctic National Wildlife Refuge, and Area 1002 comprises only eight percent of the total area of the Arctic National Wildlife Refuge; and

Whereas the United States Congress, in 16 U.S.C. 3121 (sec. 1002, Alaska National Interest Lands Conservation Act), authorized oil and gas exploratory activity within the coastal plain of the Arctic National Wildlife Refuge and reserved the right to enact future laws to allow for entry into and development of oil and gas resources in the Arctic National Wildlife Refuge; and

Whereas Area 1002 of the Arctic National Wildlife Refuge was excluded from wilderness designation in 1980 as a result of a compromise in the negotiations that led to the conversion of the Alaska Wildlife Range into the Arctic National Wildlife Refuge, with the Arctic National Wildlife Refuge encompassing an area that is approximately double the size of the Alaska Wildlife Range; and

Whereas 16 U.S.C. 3101(d) (sec. 101(d), Alaska National Interest Lands Conservation Act) expresses the belief of the United States Congress that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas in Alaska has been obviated by the enactment of the Alaska National Interest Lands Conservation Act; and

Whereas development of the oil reserves in the Arctic National Wildlife Refuge would reduce the dependence of the United States on unstable sources of foreign oil and would make the economy of the United States stronger and more stable; and

Whereas the economy of the United States would suffer further if the large natural gas resources in Area 1002 of the Arctic National Wildlife Refuge are not available for transportation in the proposed Alaska natural gas pipeline; and

Whereas clean-burning natural gas delivered by way of the proposed Alaska natural gas pipeline could be used as an environmentally friendly energy source for homes and businesses in the lower 48 states for decades to come; and

Whereas new technology and environmental practices used by the oil and gas industry provide for efficient production and environmental protection; and

Whereas 8,900,000 acres of the 19,000,000 acres in the Arctic National Wildlife Refuge are already designated as wilderness areas; and

Whereas, assuming development of major oil and gas prospects and full leasing, oil and gas operations will have a footprint on only 2,000 acres out of a total of 1,500,000 acres in Area 1002 of the Arctic National Wildlife Refuge, approximately 0.13 percent of the area; be it

*Resolved*, That the Alaska State Legislature urges the United States Congress to preserve its right to enact a law providing for the environmentally responsible exploration and development of oil and gas resources in the Arctic National Wildlife Refuge by not passing any legislation that designates land in Area 1002 of the Arctic National Wildlife Refuge as wilderness.

Copies of this resolution shall be sent to the Honorable Barack Obama, President of the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Ken Salazar, United States Secretary of the Interior; the Honorable Nancy

Pelosi, Speaker of the U.S. House of Representatives; the Honorable John Boehner, Minority Leader of the U.S. House of Representatives; the Honorable Harry Reid, Majority Leader of the U.S. Senate; the Honorable Mitch McConnell, Minority Leader of the U.S. Senate; the Honorable Jeff Bingaman, Chair of the Energy and Natural Resources Committee of the U.S. Senate; the Honorable Lisa Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and all other members of the 111th United States Congress.

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POM–83. A joint resolution adopted by the Alaska State Legislature urging the President and Congress not to adopt any policy, rule, or administrative action or enact legislation that would restrict energy exploration, development, and production in federal and state waters around Alaska, the outer continental shelf within 200 miles of shore, and elsewhere in the continental United States; to the Committee on Energy and Natural Resources.

Whereas the future growth of the United States economy is energy-dependent and requires access to domestic oil and gas resources, alternative and renewable energy resources, and increased conservation; and

Whereas the United States, as a matter of national policy, needs to reduce its long-term dependence on foreign energy sources for the purposes of economic and national security; and

Whereas responsible development and expansion of domestic energy resources will generate thousands of much-needed jobs; result in billions of dollars in new investment in and tax revenue for federal, state, and local governments; reduce oil imports; stem the flow of United States dollars to foreign governments for the purchase of energy supplies; and generally ensure the health of the United States economy in the short and long term; and

Whereas wind, solar, hydro, geothermal, and other alternative energy resources hold the potential for meeting future energy demands and deserve support, but are incapable of meeting current domestic energy needs; and

Whereas current domestic energy needs require increased access to domestic oil and gas while alternative energy resources are developed for the future; and

Whereas vast energy resources in the United States, including billions of barrels of oil and trillions of cubic feet of natural gas in areas on the North Slope and offshore from Alaska remain untouched and could be developed economically; and

Whereas new drilling techniques and environmentally sound exploration, development, and production technologies enable the development of oil and gas reserves in the continental United States and on the outer continental shelf as domestic energy resources; and

Whereas the safe and responsible exploration and development of all domestic energy resources to provide economic and national security is in the best interests of the citizens of the United States; and

Whereas the people of Alaska support the safe and responsible development of domestic energy resources and recognize the economic benefits of a balanced energy policy that includes increased development of domestic oil and gas resources; be it

*Resolved*, That the Alaska State Legislature urges the President of the United States and the United States Congress not to adopt any policy, rule, or administrative action or enact legislation that would restrict energy exploration, development, and production in federal and state waters around Alaska, the outer continental shelf within 200 miles of shore, and elsewhere in the continental United States; and be it further

*Resolved*, That the Alaska State Legislature urges the President of the United States and the United States Congress to encourage and promote continued responsible exploration, development, and production of domestic oil and gas resources.

Copies of this resolution shall be sent to the Honorable Barack Obama, President of the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Ken Salazar, United States Secretary of the Interior; the Honorable Nancy Pelosi, Speaker of the U.S. House of Representatives; the Honorable John Boehner, Minority Leader of the U.S. House of Representatives; the Honorable Harry Reid, Majority Leader of the U.S. Senate; the Honorable Mitch McConnell, Minority Leader of the U.S. Senate; the Honorable Jeff Bingaman, Chair of the Energy and Natural Resources Committee of the U.S. Senate; the Honorable Lisa Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and all other members of the 111th United States Congress.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Ms. LANDRIEU for the Committee on Small Business and Entrepreneurship.

Peggy E. Gustafson, of Illinois, to be Inspector General, Small Business Administration.

*Winslow Lorenzo Sargeant, of Wisconsin, to be Chief Counsel for Advocacy, Small Business Administration.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. AKAKA:

S. 1675. A bill to implement title V of the Nuclear Non-Proliferation Act of 1978 and to promote economical and environmentally sustainable means of meeting the energy demands of developing countries, and for other purposes; to the Committee on Foreign Relations.

By Mr. WYDEN (for himself and Mr. MERKLEY):

S. 1676. A bill to allow for the use of existing section 8 housing funds so as to preserve and revitalize affordable housing options for low-income individuals; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD (for himself and Mr. SHELBY):

S. 1677. A bill to reauthorize the Defense Production Act of 1950, and for other purposes; considered and passed.

By Mr. CARDIN (for himself, Mr. ENSIGN, Mr. REID, Mr. ISAKSON, and Ms. STABENOW):

S. 1678. A bill to amend the Internal Revenue Code of 1986 to extend the first-time homebuyer tax credit, and for other purposes; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MENENDEZ (for himself, Mr. REID, Mr. BINGAMAN, Mrs. HUTCHISON, Mr. CORNYN, Mr. LIEBERMAN, Mr. UDALL of New Mexico, Mr. UDALL of Colorado, Mr. SCHUMER, Mrs. GILLIBRAND, Mr. LEVIN, Mr. CASEY, and Mrs. MURRAY):

S. Res. 269. A resolution designating the week beginning September 20, 2009, as ''National Hispanic Serving Institutions Week''; considered and agreed to.

By Mrs. HAGAN (for herself and Mr. BURR):

S. Res. 270. A resolution congratulating the High Point Furniture Market on the occasion of its 100th anniversary as a leader in home furnishing; considered and agreed to.

By Mrs. GILLIBRAND (for herself, Mr. SCHUMER, Mr. ALEXANDER, Mr. BEGICH, Mr. REID, Mr. MENENDEZ, and Mr. LUGAR):

S. Res. 271. A resolution expressing support for the ideals and goals of Citizenship Day 2009; considered and agreed to.

By Mr. HARKIN (for himself, Mr. GRASSLEY, Mrs. LINCOLN, Mr. CHAMBLISS, Mr. LUGAR, Mr. LEAHY, Ms. KLOBUCHAR, Mr. CORNYN, Mr. BROWN, Mr. CONRAD, Mr. FRANKEN, Mrs. HUTCHISON, Mr. BAUCUS, Mr. CASEY, Ms. STABENOW, Mr. BENNET, Mr. JOHANNS, Mr. ROBERTS, Mr. NELSON of Nebraska, Mr. COCHRAN, and Mr. THUNE):

S. Res. 272. A resolution commemorating Dr. Norman Borlaug, recipient of the Nobel Peace Prize, Congressional Gold Medal, Presidential Medal of Freedom, and founder of the World Food Prize; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 451

At the request of Ms. COLLINS, the names of the Senator from Washington (Mrs. MURRAY), the Senator from New Hampshire (Mr. GREGG), the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 461

At the request of Mrs. LINCOLN, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 461, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 694

At the request of Mr. DODD, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 694, a bill to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes.

S. 902

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 902, a bill to provide grants to establish veterans' treatment courts.

S. 908

At the request of Mr. BAYH, the names of the Senator from Missouri (Mrs. MCCASKILL) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 941

At the request of Mr. CRAPO, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 984

At the request of Mrs. BOXER, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 984, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 1052

At the request of Mr. CONRAD, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1052, a bill to amend the small, rural school achievement program and the rural and low-income school program under part B of title VI of the Elementary and Secondary Education Act of 1965.

S. 1056

At the request of Mr. VOINOVICH, the names of the Senator from Tennessee (Mr. CORKER) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 1056, a bill to establish a commission to develop legislation designed to reform tax policy and entitlement benefit programs and ensure a sound fiscal future for the United States, and for other purposes.

S. 1065

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1065, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1152

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1152, a bill to allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families.

S. 1362

At the request of Mr. REED, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1362, a bill to provide grants to States to ensure that all students in the middle grades are taught an academically rigorous curriculum with effective supports so that students complete the middle grades prepared for success in high school and postsecondary endeavors, to improve State and district policies and programs relating to the academic achievement of students in the middle grades, to develop and implement effective middle grades models for struggling students, and for other purposes.

S. 1422

At the request of Mrs. MURRAY, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1422, a bill to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

S. 1446

At the request of Mrs. GILLIBRAND, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1446, a bill to amend title XIX of the Social Security Act to provide incentives for increased use of HIV screening tests under the Medicaid program.

S. 1492

At the request of Ms. MIKULSKI, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from North Carolina (Mrs. HAGAN) were added as cosponsors of S. 1492, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 1542

At the request of Mr. SCHUMER, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 1542, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1558

At the request of Mrs. LINCOLN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1558, a bill to amend title 37, United States Code, to provide travel and transportation allowances for members of the reserve components for long distance and certain other travel to inactive duty training.

S. 1655

At the request of Mr. NELSON of Nebraska, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1655, a bill to authorize the Secretary of Education to award grants for the support of full-service community schools, and for other purposes.

S. 1674

At the request of Mr. WYDEN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1674, a bill to provide for an exclusion under the Supplemental Security Income program and the Medicaid program for compensation provided to individuals who participate in clinical trials for rare diseases or conditions.

S. CON. RES. 14

At the request of Mr. BARRASSO, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 266

At the request of Mrs. GILLIBRAND, the names of the Senator from Maryland (Mr. CARDIN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. Res. 266, a resolution recognizing the contributions of John Sweeney to the United States labor movement.

At the request of Mr. DORGAN, his name was added as a cosponsor of S. Res. 266, supra.

S. RES. 268

At the request of Mr. MENENDEZ, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Res. 268, a resolution recognizing Hispanic Heritage Month and celebrating the heritage and culture of Latinos in the United States and their immense contributions to the Nation.

At the request of Mr. ENSIGN, his name was added as a cosponsor of S. Res. 268, supra.

AMENDMENT NO. 2361

At the request of Mr. GREGG, the names of the Senator from Oklahoma (Mr. COBURN) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of amendment No. 2361 proposed to H.R. 3288, a bill making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 2365

At the request of Ms. LANDRIEU, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of amendment No. 2365 proposed to H.R. 3288, a bill making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 1675. A bill to implement title V of the Nuclear Non-Proliferation Act of 1978 and to promote economical and environmentally sustainable means of meeting the energy demands of developing countries, and for other purposes; to the Committee on Foreign Relations.

Mr. AKAKA. Mr. President, I rise today to introduce The Energy Development Program Implementation Act

of 2009. This legislation provides a mechanism to guide the implementation of title V of the Nuclear Non-Proliferation Act of 1978, which requires the United States to work with developing countries in assessing and finding ways to meet their energy needs through non-nuclear, alternative energy sources.

Although title V of the Nuclear Non-Proliferation Act was passed into law more than 30 years ago, Congress did not put an implementation framework into place, and the Executive Branch never implemented the provisions. Back then, there may have been skepticism about the economic viability of alternative energy resources, but in the past 30 years there have been significant advances in the technology supporting alternative energy resources, and today there is broader agreement that the development of these resources is important for economic development, environmental sustainability, and national security.

This bill provides economic and environmental benefits to developing countries and diplomatic benefits for the U.S. Through the implementation of the Energy Development Program supported by this bill, developing countries will be provided energy assessments, receive support in evaluating energy alternatives, and be able to work on cooperative projects with United States energy experts on resource exploration, production, training, and research and development. This bill will further international collaboration around alternative energy sources and allow the United States to take on a stronger leadership role in this effort.

In addition to providing economic and environmental benefits, this bill supports international efforts to prevent nuclear proliferation. The bipartisan Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism recently recommended the implementation of title V because it will lower the risk of nuclear proliferation as developing countries are encouraged to focus more on non-nuclear, alternative energy sources. Providing concrete technical assistance to promote those energy sources in developing countries reduces the inherent risk that accompanies the wider proliferation of nuclear technology and materials.

We should remain mindful that the same nuclear technology that can be used for peaceful, civilian uses may in some cases be used to support covert or potentially dangerous nuclear programs. At my request, the Government Accountability Office, GAO, reviewed the International Atomic Energy Agency's, IAEA, Technical Cooperation, TC, Program, which supports peaceful uses of nuclear energy, including nuclear power, by providing nuclear equipment, training, and fellowships to IAEA member states. The U.S. provides approximately 25 percent of its annual budget. GAO found that the U.S. faces difficulty in assessing the nature of the nuclear assistance provided under that program, and that state sponsors of terrorism, including Iran, Syria, Sudan, and Cuba had received funding under the program. For instance, GAO reported that Iran requested assistance to complete a research reactor that could have been used for both civilian and military applications. Fortunately, IAEA denied this assistance, but this example highlights the inherent proliferation risks of nuclear power and the benefit of focusing more on alternative energy sources.

This bill puts into place an implementation mechanism to support this effort. It requires the Secretary of Energy, in cooperation with the Secretary of State and the administrator of the U.S. Agency for International Development, to develop strategic and implementation plans for the Energy Development Program. The Secretary of Energy will then be required to carry out the implementation of the program according to those plans.

The Energy Development Program would be supported by the exchange of energy experts, scientists, and technicians with developing countries. Federal employees will have an opportunity to work with developing countries on energy assessments and projects focused on finding and developing non-nuclear, alternative sources of energy, while retaining their seniority and other rights and benefits within their home agencies. They will be able to share their expertise with professionals in developing countries and also bring back new ideas and perspectives from overseas that could help us in our own efforts to develop alternative energy sources.

The time has come to implement title V of the Nuclear Non-Proliferation Act. This legislation will put that process in motion. The benefits of this program have global impact as we assist developing countries in meeting their energy needs with alternative energy sources, reduce the risk of nuclear proliferation, and take a more prominent leadership role in developing alternative energy sources.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1675

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Energy Development Program Implementation Act of 2009''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) title V of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3261 et seq.) requires the United States to work with developing countries in assessing and finding ways to meet their energy needs through alternatives to nuclear energy that are consistent with economic factors, material resources, and environmental protection; and

(2) in December 2008, the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism noted that the Federal Government had failed to implement title V of that Act and recommended that the Federal Government implement title V of that Act to help reduce the risk of nuclear proliferation.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Homeland Security and Governmental Affairs, the Committee on Foreign Relations, the Committee on Energy and Natural Resources, and the Committee on Appropriations of the Senate; and

(B) the Committee on Oversight and Government Reform, the Committee on Foreign Affairs, the Committee on Energy and Commerce, and the Committee on Appropriations of the House of Representatives.

(2) ENERGY DEVELOPMENT PROGRAM.—The term ''energy development program'' means the program established under title V of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3261 et seq.).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy, in cooperation with the Secretary of State and the Administrator of the United States Agency for International Development.

**SEC. 4. ENERGY DEVELOPMENT PROGRAM IMPLEMENTATION.**

(a) STRATEGIC AND IMPLEMENTATION PLANS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop—

(A) strategic plans for the energy development program consistent with title V of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3261 et seq.); and

(B) implementation plans for the energy development program consistent with title V of that Act.

(2) REVIEW OF PLANS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit the strategic and implementation plans to the appropriate congressional committees for review.

(b) IMPLEMENTATION.—Not later than 180 days after the date on which the plans are submitted to the appropriate congressional committees for review under subsection (a), the Secretary shall implement the plans.

(c) ALLOWANCES, PRIVILEGES, AND OTHER BENEFITS.—

(1) IN GENERAL.—A Federal employee serving in an exchange capacity in the energy development program shall be considered to be detailed.

(2) EMPLOYING AGENCY.—For the purpose of preserving allowance, privileges, rights, seniority, and other benefits with respect to the Federal employee, the employee shall be—

(A) considered an employee of the original employing agency; and

(B) entitled to the pay, allowances, and benefits from funds available to the original employing agency.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 2010 and each fiscal year thereafter.

**SEC. 5. REPORTS.**

(a) ANNUAL REPORT.—Not later than 1 year after the date of implementation of the plans under section 4(b) and every year thereafter, the Secretary shall report annually to the appropriate congressional committees on the plans consistent with section 501 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3261).

(b) REPORT ON THE ALTERNATIVE ENERGY CORPS.—

(1) COOPERATIVE ACTIVITIES.—Not later than 1 year after the date of implementation of the plans under section 4(b), the Secretary shall report to the appropriate congressional committees on the feasibility of expanding the cooperative activities established pursuant to section 503(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3262 note; Public Law 95-242) into an international cooperative effort.

(2) REQUIREMENTS.—The report required under paragraph (1) shall include an analysis and description of—

(A) an Alternative Energy Corps that is designed to encourage large numbers of technically trained volunteers to live and work in developing countries for varying periods of time for the purpose of engaging in projects to aid in meeting the energy needs of those countries through—

(i) the search for and use of non-nuclear indigenous energy resources; and

(ii) the application of suitable technology, including the widespread use of renewable and unconventional energy technologies; and

(B) other mechanisms that are available to coordinate an international effort to develop, demonstrate, and encourage the use of suitable technologies in developing countries.

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By Mr. WYDEN (for himself and Mr. MERKLEY):

S. 1676. A bill to allow for the use of existing section 8 housing funds so as to preserve and revitalize affordable housing options for low-income individuals; to the Committee on Banking, Housing, and Urban Affairs.

Mr. WYDEN. Mr. President, today I rise to introduce the Affordable Housing Preservation and Revitalization Act. I am delighted and honored to be joined in this effort by my good friend and colleague, Senator JEFF MERKLEY. It has been my privilege to work with Senator MERKLEY and his staff on an issue that is so important to our state of Oregon and to folks around the country.

There has been a lot of talk about housing in the media over the past year. The topic of most of these conversations has been the turmoil in lending industry and the fallout from the mortgage meltdown. So much so that many Americans have by now become familiar with terms like ''subprime'' and ''securitization.''

But there is another housing story here, even though it may not get the same attention or airtime: It is the story of homelessness and the struggle to find affordable housing, and for thousands of Oregonians it's a daily reality.

Like many States, Oregon is experiencing a sharp rise in homelessness.

In Multnomah County this past January, a count found 2,438 people homeless on a particular night. That was 13 percent higher than in 2007. The deterioration in the economy since January means there are probably more homeless on Portland streets now, officials said.

In July, the Department of Housing and Urban Development released a report that listed Oregon as the State with the highest concentration of homeless people.

According to a September report by the National Alliance to End Homeless, Central Oregon now ranks sixth in the Nation in overall homelessness rates and third among rural communities.

In times like these, the Federal Government can hardly stand to lose its stock of affordable housing. Sadly, that is exactly whats happening.

As long term contracts are coming due, many landlords are leaving the business of affordable housing for the private market. As these owners convert to market rents, which is in their economic interest, the low-income tenants will be unable to afford their homes. With fewer and fewer places to turn, many of these folks will end up on the street.

Some of properties have what are known as residual receipts—funds left over once the operating expenses and owner's distribution have been paid. Currently, this money can only be used in the most extreme of situations. As a result, many of these residual receipts have accumulated for nearly 3 decades. In Oregon alone, estimates suggest there are more than $10 million in untapped residual receipts.

Senator MERKLEY and I believe these funds represent a substantial asset that could be used to help preserve affordable housing projects with expiring contracts. That is why we are introducing the Affordable Housing Preservation and Revitalization Act.

Our legislation would permit residual receipts to be transferred with affordable housing properties that are sold to non-profits, provided the non-profits commit to preserving and maintaining the housing stock as affordable.

Our legislation isn't a magic bullet and it certainly will not ensure that every American can put a roof over their head. But we think it's the kind of common sense approach that Americans can get behind. I hope that our colleagues will join us in supporting this bill.

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By Mr. CARDIN (for himself, Mr. ENSIGN, Mr. REID, Mr. ISAKSON, and Ms. STABENOW):

S. 1678. A bill to amend the Internal Revenue Code of 1986 to extend the first-time homebuyer tax credit, and for other purposes; to the Committee on Finance.

Mr. CARDIN. Mr. President, I rise to introduce a bill to extend the current first-time home buyers' tax credit for 6 months to June 1, 2010. I am pleased to have Senators ENSIGN, HARRY REID, ISAKSON, and STABENOW as original cosponsors of this legislation.

I know my colleagues remember that it was housing that led us into this recession. Remember how in the housing market the values fell, there were mortgage foreclosures, and housing starts stopped. Well, housing can help lead us out of this recession.

The Housing and Economic Recovery Act of 2008 initially established a credit at $7,500, and that was repayable over 15 years. The American Recovery and Reinvestment Act of 2009 increased that credit to $8,000, dropped the repayment obligation, and extended the credit to December 1, 2009.

The legislation I am introducing today with my colleagues Senators ENSIGN, HARRY REID, ISAKSON, and STABENOW would change the expiration date from December 1, 2009, to June 1, 2010. I know my colleagues understand the time delay here which requires that the houses go through settlement in order to qualify for the credit. So I think it is important that we act timely, not waiting until November 1, but to try to get this bill moving quickly. It has been an incredibly important tool to help the housing market to help restore our economy.

This is a direct extension, a clean extension. It basically extends it for 6 months. I have talked with my colleagues about ways this credit perhaps could be improved, and I know we will get into that debate. But I want to make sure we don't have a lapse in this credit being available to help first-time home buyers. It has been very valuable. As we work to perhaps modify this proposal, let us make sure we continue it so as we are fighting to get our economy back on track, we don't regress and lose this tool that is available to help the housing market.

The credit has been a huge success in helping to revive a depressed housing market. As of March 6, 2009, the Treasury inspector general for tax administration identified nearly 530,000 returns claiming more than $3.9 billion in the first-time homeowners' tax credit.

As many as 40 percent of all home buyers this year will qualify for a credit. That tells us this credit is working. It is getting people who have never owned a home before into the homebuying market, knowing that the Federal Government is providing an incentive. It is estimated the credit is directly responsible for roughly 300,000 to 400,000 purchases this year. According to the National Association of Realtors, those additional sales have pumped approximately $22 billion into the economy. This is a modest tax incentive to help an industry that is vital to our economy, that produces an incredible amount of economic activity and jobs. Mortgage applications increased nearly 10 percent for the week ending September 3 from late August, the largest gain since early April.

Economists such as Mark Zandi of Moody's and James Glassman of JPMorgan Chase support extending this credit. While there are signs that the housing market is stabilizing, we are not out of the woods yet. The industry and part of the economy still needs help. I have talked to many of the realtors in my community in Maryland and they tell me the inventory of property on the market is at high levels. There is a lot of inventory out there. More people are wanting to sell than people willing to buy. The number of new housing starts for residential homes is at a very low level. Each

housing start creates jobs. It creates jobs in the material industry. It creates all types of ripples in our economy. So getting the housing market back on track will not only help in getting more homeowners into homes and helping the economy that direct way, it also creates the jobs and maintains the jobs of those who supply the network which will create new housing stock for America.

Dean Baker, the codirector for the Center for Economic and Policy Research, notes that price declines could resume later this fall. I quote:

The uptick in sales driven by the credit has led to a substantial increase in the number of homes offered for sale at just the time that the boost from the credit is dwindling. The inventory will also be a much larger drag in the slow-selling winter months. . . .

So we now have a large inventory, and if the credit is not available, I think it will have a very negative impact on the ability to continue housing sales at a level of recovery for our economy.

Extending the credit is prudent and a fiscally responsible measure. It provides the help. We know it works. We know what has happened. We know we are still in difficult times. It is not the time to eliminate this tool that we have available. That is why I am recommending an extension, not a permanent extension, because we want this credit to be available to get us out of our current economic problems. We know we still need it. A 6-month extension is the minimum we should do. At the same time, we should look at other ways to improve and help the housing industry and to help the recovery of our Nation.

I appreciate my colleagues who have joined me in this effort. I hope my colleagues in this body will help us with moving this legislation as promptly as possible.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 269—DESIGNATING THE WEEK BEGINNING SEPTEMBER 20, 2009, AS ''NATIONAL HISPANIC SERVING INSTITUTIONS WEEK''

Mr. MENENDEZ (for himself, Mr. REID, Mr. BINGAMAN, Mrs. HUTCHISON, Mr. CORNYN, Mr. LIEBERMAN, Mr. UDALL of New Mexico, Mr. UDALL of Colorado, Mr. SCHUMER, Mrs. GILLIBRAND, Mr. LEVIN, Mr. CASEY, and Mrs. MURRAY) submitted the following resolution; which was considered and agreed to:

S. RES. 269

Whereas Hispanic Serving Institutions play an important role in educating Hispanic students and helping them contribute to the economic vitality of this Nation;

Whereas there are approximately 268 Hispanic Serving Institutions currently in operation in the United States;

Whereas Hispanic Serving Institutions are actively involved in stabilizing and improving their local communities;

Whereas celebrating the vast contributions of Hispanic Serving Institutions adds to the strength and culture of our Nation; and

Whereas the achievements and goals of Hispanic Serving Institutions are deserving of national recognition: Now, therefore, be it

*Resolved,* That the Senate—

(1) recognizes the achievement and goals of Hispanic Serving Institutions across this Nation;

(2) designates the week beginning September 20, 2009, as ''National Hispanic Serving Institutions Week''; and

(3) calls on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for Hispanic Serving Institutions.

### SENATE RESOLUTION 270—CONGRATULATING THE HIGH POINT FURNITURE MARKET ON THE OCCASION OF ITS 100TH ANNIVERSARY AS A LEADER IN HOME FURNISHING

Mrs. HAGAN (for herself and Mr. BURR) submitted the following resolution; which was considered and agreed to:

S. RES. 270

Whereas, since the first home furnishings market was held in High Point, North Carolina in the spring of 1909, the High Point Furniture Market has gained a worldwide reputation as the premier place to experience the newest ideas in home furnishings;

Whereas, as the home furnishings market that has more new product premieres than any other, the High Point Furniture Market has become known around the world as the launching pad for the home furnishings trends that will shape the culture and homes of the people of the United States for years to come;

Whereas, every spring and fall for 100 years, as many as 85,000 people have traveled to the small city of High Point from all parts of the United States and more than 110 countries to participate in one of the largest and most influential commercial events in the world;

Whereas the High Point Furniture Market is the intellectual and creative nerve center of the home furnishings industry in the United States, and the centerpiece of the furniture industry cluster in the region;

Whereas a study conducted by High Point University in 2007 estimated the economic impact of the furniture industry cluster in the region at $8,250,000,000 annually and found that the furniture industry cluster was responsible for more than 69,000 jobs in the region;

Whereas an economic impact study carried out at the University of North Carolina at Greensboro found that the High Point Furniture Market contributes approximately $1,200,000,000 each year to the economies of the City of High Point, the Piedmont Triad, and the State of North Carolina;

Whereas the High Point Furniture Market is responsible for approximately 13,516 jobs, just under 20 percent of the furniture-related jobs in the Piedmont Triad;

Whereas the High Point Furniture Market is a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986;

Whereas the Department of Commerce has awarded the High Point Furniture Market ''International Buyer Program'' status for 3 years;

Whereas, as a participant in the International Buyer Program, the High Point Furniture Market represents the United States and the State of North Carolina to the world, and positions the home furnishings industry in the United States front and center on the world stage; and

Whereas, as the first century of the High Point Furniture Market comes to a close in fall of 2009, the High Point Furniture Market continues to expand and improve, securing its position as the most important domestic and international event in the home furnishings industry: Now, therefore, be it

*Resolved,* That the Senate—

(1) congratulates the High Point Market on the occasion of its 100th anniversary as a leader in home furnishing;

(2) honors and recognizes the contributions of the High Point Furniture Market during the last 100 years; and

(3) encourages the High Point Furniture Market to continue as the world-wide premier event of the home furnishings industry.

### SENATE RESOLUTION 271—EXPRESSING SUPPORT FOR THE IDEALS AND GOALS OF CITIZENSHIP DAY 2009

Mrs. GILLIBRAND (for herself, Mr. SCHUMER, Mr. ALEXANDER, Mr. BEGICH, Mr. REID, Mr. MENENDEZ, and Mr. LUGAR) submitted the following resolution; which was considered and agreed to:

S. RES. 271

Whereas Constitution Day and Citizenship Day are observed each year on September 17;

Whereas, the Joint Resolution of February 29, 1952 (66 Stat. 9, chapter 49), designated September 17 of each year as ''Citizenship Day'', in ''commemoration of the formation and signing, on September 17, 1787, of the Constitution of the United States and in recognition of all who, by coming of age or by naturalization have attained the status of citizenship'';

Whereas section 111(c) of Division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3344) amended section 106 of title 36, United States Code, to designate September 17 as ''Constitution Day and Citizenship Day'';

Whereas Citizenship Day is a special day for all United States citizens, including those who were born in the United States and those who chose to become citizens;

Whereas Citizenship Day is a day to take pride in being a United States citizen and to appreciate the rights, freedoms, and responsibilities inherent in United States citizenship;

Whereas, on Citizenship Day, naturalization ceremonies will be held at historic landmarks throughout the United States;

Whereas United States citizens are viewed with respect, honor, and dignity in the United States and throughout the world; and

Whereas, on September 17 of each year, ''The civil and educational authorities of States, counties, cities, and towns are urged to make plans for the proper observance of Constitution Day and Citizenship Day and for the complete instruction of citizens in their responsibilities and opportunities as citizens of the United States and of the State and locality in which they reside'', section 106(d) of title 36, United States Code: Now, therefore, be it

*Resolved,* That the Senate—

(1) supports the ideals and goals of Citizenship Day 2009;

(2) recognizes that citizens from all backgrounds have made countless contributions to the strength of the United States, making the United States a symbol of success, promise, and hope;

(3) recognizes the initiative taken by immigrants to learn about the responsibilities and significance of United States citizenship and wishes immigrants well in their future efforts to contribute to the United States; and

(4) calls on the people of the United States to observe Citizenship Day with appropriate ceremonies, activities, and programs in support of all United States citizens.

## SENATE RESOLUTION 272—COMMEMORATING DR. NORMAN BORLAUG, RECIPIENT OF THE NOBEL PEACE PRIZE, CONGRESSIONAL GOLD MEDAL, PRESIDENTIAL MEDAL OF FREEDOM, AND FOUNDER OF THE WORLD FOOD PRIZE

Mr. HARKIN (for himself, Mr. GRASSLEY, Mrs. LINCOLN, Mr. CHAMBLISS, Mr. LUGAR, Mr. LEAHY, Ms. KLOBUCHAR, Mr. CORNYN, Mr. BROWN, Mr. CONRAD, Mr. FRANKEN, Mrs. HUTCHISON, Mr. BAUCUS, Mr. CASEY, Ms. STABENOW, Mr. BENNET, Mr. JOHANNS, Mr. ROBERTS, Mr. NELSON of Nebraska, Mr. COCHRAN, and Mr. THUNE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 272

Whereas Dr. Norman E. Borlaug was born on March 25, 1914, of Norwegian parents on a farm in Cresco, Iowa, and was educated in a 1-room school house throughout grades 1 through 8;

Whereas Dr. Borlaug attended the University of Minnesota, where he earned a Ph.D. degree in Plant Pathology;

Whereas, beginning in 1944, Dr. Borlaug spent 2 decades in rural Mexico working to assist the poorest farmers through a pioneering Rockefeller Foundation program;

Whereas Dr. Borlaug's research and innovative ''shuttle breeding'' in Mexico enabled him to develop a new approach to agriculture and a new disease-resistant variety of wheat with triple the output of grain;

Whereas this breakthrough achievement in plant production enabled Mexico to become self-sufficient in wheat by 1956, and concurrently raised the living standard for thousands of poor Mexican farmers;

Whereas Dr. Borlaug was asked by the United Nations to travel to India and Pakistan in the 1960s, as South-Asia and the Middle East faced an imminent widespread famine, where he eventually helped convince those 2 warring governments to adopt his new seeds and new approach to agriculture to address this critical problem;

Whereas, Dr. Borlaug brought miracle wheat to India and Pakistan, which helped both countries become self-sufficient in wheat production, thus saving hundreds of millions of people from hunger, famine, and death;

Whereas Dr. Borlaug and his team trained young scientists from Algeria, Tunisia, Egypt, Jordan, Iraq, Turkey, and Afghanistan in this same new approach to agriculture, which introduced new seeds but also put emphasis on the use of fertilizer and irrigation, thus increasing yields significantly in those countries as well;

Whereas Dr. Borlaug's approach to wheat was adapted by research scientists working in rice, which spread the Green Revolution to Asia, feeding and saving millions of people from hunger and starvation;

Whereas Dr. Borlaug was awarded the Nobel Peace Prize in 1970 as the ''Father of the Green Revolution'' and is only 1 of 5 people to have ever received the Nobel Peace Prize, Presidential Medal of Freedom, and Congressional Gold Medal;

Whereas Dr. Borlaug headed the Sasakawa Global 2000 program to bring the Green Revolution to 10 countries in Africa, and traveled the world to educate the next generation of scientists on the importance of producing new breakthrough achievements in food production;

Whereas Dr. Borlaug tirelessly promoted the potential that biotechnology offers for feeding the world, while also preserving biodiversity, in the 21st century when the global population is projected to rise to 9,000,000,000 people;

Whereas Dr. Borlaug continued his role as an educator as a Distinguished Professor at Texas A&M University, while also working at the International Center for the Improvement of Wheat and Maize in Mexico;

Whereas Dr. Borlaug founded the World Food Prize, called by several world leaders ''The Nobel Prize for Food and Agriculture'', which is awarded in Iowa each October so as to recognize and inspire Nobel-like achievements in increasing the quality, quantity, and availability of food in the world;

Whereas the Senate designated October 16 as World Food Prize Day in America in honor of Dr. Borlaug; and

Whereas it is written of Dr. Borlaug that throughout all of his work he saved 1,000,000,000 lives, thus making him widely known as saving more lives than any other person in human history: Now, therefore, be it

*Resolved,* That—

(1) the Senate has received with profound sorrow and deep regret the announcement of the passing of Dr. Norman Borlaug;

(2) the Senate directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of the deceased; and

(3) when the Senate adjourns today, the Senate stands adjourned as a further mark of respect to the memory of Dr. Norman Borlaug.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2407. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 2408. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 3288, supra; which was ordered to lie on the table.

SA 2409. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 3288, supra; which was ordered to lie on the table.

SA 2410. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3288, supra.

SA 2411. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill H.R. 3288, supra; which was ordered to lie on the table.

SA 2412. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill H.R. 3288, supra; which was ordered to lie on the table.

SA 2413. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3288, supra; which was ordered to lie on the table.

SA 2414. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 3288, supra; which was ordered to lie on the table.

SA 2415. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 3288, supra.

SA 2416. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3288, supra; which was ordered to lie on the table.

SA 2417. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3288, supra; which was ordered to lie on the table.

SA 2418. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3288, supra; which was ordered to lie on the table.

SA 2419. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3288, supra; which was ordered to lie on the table.

SA 2420. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3288, supra; which was ordered to lie on the table.

SA 2421. Mr. KYL proposed an amendment to the bill H.R. 3288, supra.

SA 2422. Mr. CASEY (for Mrs. FEINSTEIN (for herself and Mr. BOND)) proposed an amendment to the bill S. 1494, to authorize appropriations for fiscal year 2010 for intelligence and intelligence—related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

## TEXT OF AMENDMENTS

**SA 2407.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 304, line 19, strike the period and insert the following: ''; ''(8) involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); and ''(9) is a member of a criminal street gang, as defined in section 521 of title 18, United States Code.''.

**SA 2408.** Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 301, strike lines 4 through 10, and insert the following:

(9) Any financial risk to the FHA General and Special Risk Insurance Fund, as determined by the Secretary, would be reduced as a result of a transfer completed under this section. The Secretary may waive this requirement upon determining such a waiver is necessary to facilitate the financing of acquisition, refinancing, construction, or rehabilitation of the receiving project.

(10) The Secretary determines that Federal liability with regard to this project will not be increased. The Secretary may waive this requirement upon determining such a waiver is necessary to facilitate the financing of acquisition, refinancing, construction, or rehabilitation of the receiving project.

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**SA 2409.** Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 318, between lines 11 and 12, insert the following:

SEC. 234. Section 2301 of the Foreclosure Prevention Act of 2008 (42 U.S.C. 5301 note) is amended—

(1) in subsection (c)(4)—

(A) in subparagraph (A), by striking ''for purchase and redevelopment of foreclosed upon homes and residential properties,'' and inserting ''for the eligible uses or properties described in subparagraphs (B) through (E)''; and

(B) in subparagraph (C), by striking ''for homes and residential properties that have been foreclosed upon'' and inserting ''for properties described in subparagraphs (B), (D), and (E)''; and

(2) in subsection (f)(3)(A)(ii), by striking ''for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used''.

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**SA 2410.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 179, between lines 4 and 5, insert the following:

**SEC. 118. LIMITATION ON USE OF FUNDS FOR JOHN MURTHA JOHNSTOWN-CAMBRIA COUNTY AIRPORT.**

None of the funds appropriated or otherwise made available by this title (including funds derived from the Airport and Airway Trust Fund) may be obligated or expended by the Secretary of Transportation, the Administrator of the Federal Aviation Administration, or any other officer or employee of the Department of Transportation for use at, or in connection with operations (other than air traffic control operations) at, the John Murtha Johnstown-Cambria County Airport, including to provide subsidized air service to or from that Airport.

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**SA 2411.** Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 8 and 9, and redesignate paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

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**SA 2412.** Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 9 insert '', unless a State determines that there is a highway safety benefit'' before the semicolon at the end.

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**SA 2413.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, between lines 4 and 5, insert the following:

**SEC. 118. AIRLINE PASSENGER BILL OF RIGHTS.**

(a) SHORT TITLE.—This section may be cited as the ''Airline Passenger Bill of Rights Act of 2009''.

(b) AIRLINE CUSTOMER SERVICE COMMITMENT.—

(1) IN GENERAL.—Chapter 417 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER IV—AIRLINE CUSTOMER SERVICE

**''§ 41781. Air carrier and airport contingency plans for long on-board tarmac delays**

''(a) DEFINITION OF TARMAC DELAY.—The term 'tarmac delay' means the holding of an aircraft on the ground before taking off or after landing with no opportunity for its passengers to deplane.

''(b) SUBMISSION OF AIR CARRIER AND AIRPORT PLANS.—Not later than 60 days after the date of the enactment of this section, each air carrier and airport operator shall submit, in accordance with the requirements under this section, a proposed contingency plan to the Secretary of Transportation for review and approval.

''(c) MINIMUM STANDARDS.—The Secretary of Transportation shall establish minimum standards for elements in contingency plans required to be submitted under this section to ensure that such plans effectively address long on-board tarmac delays and provide for the health and safety of passengers and crew.

''(d) AIR CARRIER PLANS.—The plan shall require each air carrier to implement at a minimum the following:

''(1) PROVISION OF ESSENTIAL SERVICES.—Each air carrier shall provide for the essential needs of passengers on board an aircraft at an airport in any case in which the departure of a flight is delayed or disembarkation of passengers on an arriving flight that has landed is substantially delayed, including—

''(A) adequate food and potable water;

''(B) adequate restroom facilities;

''(C) cabin ventilation and comfortable cabin temperatures; and

''(D) access to necessary medical treatment.

''(2) RIGHT TO DEPLANE.—

''(A) IN GENERAL.—Each air carrier shall submit a proposed contingency plan to the Secretary of Transportation that identifies a clear time frame under which passengers would be permitted to deplane a delayed aircraft. After the Secretary has reviewed and approved the proposed plan, the air carrier shall make the plan available to the public.

''(B) DELAYS.—

''(i) IN GENERAL.—As part of the plan, except as provided under clause (iii), an air carrier shall provide passengers with the option of deplaning and returning to the terminal at which such deplaning could be safely completed, or deplaning at the terminal if—

''(I) 3 hours have elapsed after passengers have boarded the aircraft, the aircraft doors are closed, and the aircraft has not departed; or

''(II) 3 hours have elapsed after the aircraft has landed and the passengers on the aircraft have been unable to deplane.

''(ii) FREQUENCY.—The option described in clause (i) shall be offered to passengers at a minimum not less often than once during each successive 3-hour period that the plane remains on the ground.

''(iii) EXCEPTIONS.—This subparagraph shall not apply if—

''(I) the pilot of such aircraft reasonably determines that the aircraft will depart or be unloaded at the terminal not later than 30 minutes after the 3-hour delay; or

''(II) the pilot of such aircraft reasonably determines that permitting a passenger to deplane would jeopardize passenger safety or security.

''(C) APPLICATION TO DIVERTED FLIGHTS.—This section applies to aircraft without regard to whether they have been diverted to an airport other than the original destination.

''(D) REPORTS.—Not later than 30 days after any flight experiences a tarmac delay lasting at least 3 hours, the air carrier responsible for such flight shall submit a written description of the incident and its resolution to the Aviation Consumer Protection Office of the Department of Transportation.

''(e) AIRPORT PLANS.—Each airport operator shall submit a proposed contingency plan under subsection (b) that contains a description of—

''(1) how the airport operator will provide for the deplanement of passengers following a long tarmac delay; and

''(2) how, to the maximum extent practicable, the airport operator will provide for the sharing of facilities and make gates available at the airport for use by aircraft experiencing such delays.

''(f) UPDATES.—The Secretary of Transportation shall require periodic reviews and updates of the plans as necessary.

''(g) APPROVAL.—

''(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, the Secretary of Transportation shall—

''(A) review the initial contingency plans submitted under subsection (b); and

''(B) approve plans that closely adhere to the standards described in subsection (d) or (e), whichever is applicable.

''(2) UPDATES.—Not later than 60 days after the submission of an update under subsection (f) or an initial contingency plan by a new air carrier or airport operator, the Secretary shall—

''(A) review the plan; and

''(B) approve the plan if it closely adheres to the standards described in subsection (d) or (e), which ever is applicable.

''(h) CIVIL PENALTIES.—The Secretary may assess a civil penalty under section 46301 against any air carrier or airport operator that does not submit, obtain approval of, or adhere to a contingency plan submitted under this section.

''(i) PUBLIC ACCESS.—Each air carrier and airport operator required to submit a contingency plan under this section shall ensure public access to an approved plan under this section by—

''(1) including the plan on the Internet website of the air carrier or airport; or

''(2) disseminating the plan by other means, as determined by the Secretary.

**''§ 41782. Air passenger complaints hotline and information**

''(a) AIR PASSENGER COMPLAINTS HOTLINE TELEPHONE NUMBER.—The Secretary of Transportation shall establish a consumer complaints hotline telephone number for the use of air passengers.

''(b) PUBLIC NOTICE.—The Secretary shall notify the public of the telephone number established under subsection (a).

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, which sums shall remain available until expended.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 417 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER IV—AIRLINE CUSTOMER SERVICE

''41781. Air carrier and airport contingency plans for long on-board tarmac delays.

''41782. Air passenger complaints hotline and information.''.

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**SA 2414.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 228, between lines 4 and 5, insert the following:

SEC. 177. No amount appropriated to the Maritime Administration under this Act may be used to provide financial grants of assistance to owners or operators of vessels to which section 3507 of title 46, United States Code, applies for the purpose of retrofitting such vessels to meet the requirements of that section.

**SEC. 178. SHORT TITLE; CRUISE VESSEL SECURITY AND SAFETY REQUIREMENTS.**

(a) SHORT TITLE.—This section may be cited as the ''Cruise Vessel Security and Safety Act of 2009''.

(b) IN GENERAL.—Chapter 35 of title 46, United States Code, is amended by adding at the end the following:

**''§ 3507. Passenger vessel security and safety requirements**

''(a) VESSEL DESIGN, EQUIPMENT, CONSTRUCTION, AND RETROFITTING REQUIREMENTS.—

''(1) IN GENERAL.—Each vessel to which this subsection applies shall comply with the following design and construction standards:

''(A) The vessel shall be equipped with ship rails that are located not less than 42 inches above the cabin deck.

''(B) Each passenger stateroom and crew cabin shall be equipped with entry doors that include peep holes or other means of visual identification.

''(C) For any vessel the keel of which is laid after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, each passenger stateroom and crew cabin shall be equipped with—

''(i) security latches; and

''(ii) time-sensitive key technology.

''(D) The vessel shall integrate technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the extent that such technology is available.

''(E) The vessel shall be equipped with a sufficient number of operable acoustic hailing or other such warning devices to provide communication capability around the entire vessel when operating in high risk areas (as defined by the United States Coast Guard).

''(2) FIRE SAFETY CODES.—In administering the requirements of paragraph (1)(C), the Secretary shall take into consideration fire safety and other applicable emergency requirements established by the U. S. Coast Guard and under international law, as appropriate.

''(3) EFFECTIVE DATE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the requirements of paragraph (1) shall take effect 18 months after the date of enactment of the Cruise Vessel Security and Safety Act of 2009.

''(B) LATCH AND KEY REQUIREMENTS.—The requirements of paragraph (1)(C) take effect on the date of enactment of the Cruise Vessel Security and Safety Act of 2009.

''(b) VIDEO RECORDING.—

''(1) REQUIREMENT TO MAINTAIN SURVEILLANCE.—The owner of a vessel to which this section applies shall maintain a video surveillance system to assist in documenting crimes on the vessel and in providing evidence for the prosecution of such crimes, as determined by the Secretary.

''(2) ACCESS TO VIDEO RECORDS.—The owner of a vessel to which this section applies shall provide to any law enforcement official performing official duties in the course and scope of an investigation, upon request, a copy of all records of video surveillance that the official believes may provide evidence of a crime reported to law enforcement officials.

''(c) SAFETY INFORMATION.—The owner of a vessel to which this section applies shall provide in each passenger stateroom, and post in a location readily accessible to all crew and in other places specified by the Secretary, information regarding the locations of the United States embassy and each consulate of the United States for each country the vessel will visit during the course of the voyage.

''(d) SEXUAL ASSAULT.—The owner of a vessel to which this section applies shall—

''(1) maintain on the vessel adequate, in-date supplies of anti-retroviral medications and other medications designed to prevent sexually transmitted diseases after a sexual assault;

''(2) maintain on the vessel equipment and materials for performing a medical examination in sexual assault cases to evaluate the patient for trauma, provide medical care, and preserve relevant medical evidence;

''(3) make available on the vessel at all times medical staff who have undergone a credentialing process to verify that he or she—

''(A) possesses a current physician's or registered nurse's license and—

''(i) has at least 3 years of post-graduate or post-registration clinical practice in general and emergency medicine; or

''(ii) holds board certification in emergency medicine, family practice medicine, or internal medicine;

''(B) is able to provide assistance in the event of an alleged sexual assault, has received training in conducting forensic sexual assault examination, and is able to promptly perform such an examination upon request and provide proper medical treatment of a victim, including administration of anti-retroviral medications and other medications that may prevent the transmission of human immunodeficiency virus and other sexually transmitted diseases; and

''(C) meets guidelines established by the American College of Emergency Physicians relating to the treatment and care of victims of sexual assault;

''(4) prepare, provide to the patient, and maintain written documentation of the findings of such examination that is signed by the patient; and

''(5) provide the patient free and immediate access to—

''(A) contact information for local law enforcement, the Federal Bureau of Investigation, the United States Coast Guard, the nearest United States consulate or embassy, and the National Sexual Assault Hotline program or other third party victim advocacy hotline service; and

''(B) a private telephone line and Internet-accessible computer terminal by which the individual may confidentially access law enforcement officials, an attorney, and the information and support services available through the National Sexual Assault Hotline program or other third party victim advocacy hotline service.

''(e) CONFIDENTIALITY OF SEXUAL ASSAULT EXAMINATION AND SUPPORT INFORMATION.—The master or other individual in charge of a vessel to which this section applies shall—

''(1) treat all information concerning an examination under subsection (d) confidential, so that no medical information may be released to the cruise line or other owner of the vessel or any legal representative thereof without the prior knowledge and approval in writing of the patient, or, if the patient is unable to provide written authorization, the patient's next-of-kin, except that nothing in this paragraph prohibits the release of—

''(A) information, other than medical findings, necessary for the owner or master of the vessel to comply with the provisions of subsection (g) or other applicable incident reporting laws;

''(B) information to secure the safety of passengers or crew on board the vessel; or

''(C) any information to law enforcement officials performing official duties in the course and scope of an investigation; and

''(2) treat any information derived from, or obtained in connection with, post-assault counseling or other supportive services confidential, so no such information may be released to the cruise line or any legal representative thereof without the prior knowledge and approval in writing of the patient, or, if the patient is unable to provide written authorization, the patient's next-of-kin.

''(f) CREW ACCESS TO PASSENGER STATEROOMS.—The owner of a vessel to which this section applies shall—

''(1) establish and implement procedures and restrictions concerning—

''(A) which crewmembers have access to passenger staterooms; and

''(B) the periods during which they have that access; and

''(2) ensure that the procedures and restrictions are fully and properly implemented and periodically reviewed.

''(g) LOG BOOK AND REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—The owner of a vessel to which this section applies shall—

''(A) record in a log book, either electronically or otherwise, in a centralized location readily accessible to law enforcement personnel, a report on—

''(i) all complaints of crimes described in paragraph (3)(A)(i),

''(ii) all complaints of theft of property valued in excess of $1,000, and

''(iii) all complaints of other crimes,

committed on any voyage that embarks or disembarks passengers in the United States; and

''(B) make such log book available upon request to any agent of the Federal Bureau of Investigation, any member of the United States Coast Guard, and any law enforcement officer performing official duties in the course and scope of an investigation.

''(2) DETAILS REQUIRED.—The information recorded under paragraph (1) shall include, at a minimum—

''(A) the vessel operator;

''(B) the name of the cruise line;

''(C) the flag under which the vessel was operating at the time the reported incident occurred;

''(D) the age and gender of the victim and the accused assailant;

''(E) the nature of the alleged crime or complaint, as applicable, including whether the alleged perpetrator was a passenger or a crewmember;

''(F) the vessel's position at the time of the incident, if known, or the position of the vessel at the time of the initial report;

''(G) the time, date, and method of the initial report and the law enforcement authority to which the initial report was made;

''(H) the time and date the incident occurred, if known;

''(I) the total number of passengers and the total number of crew members on the voyage; and

''(J) the case number or other identifier provided by the law enforcement authority to which the initial report was made.

''(3) REQUIREMENT TO REPORT CRIMES AND OTHER INFORMATION.—

''(A) IN GENERAL.—The owner of a vessel to which this section applies (or the owner's designee)—

''(i) shall contact the nearest Federal Bureau of Investigation Field Office or Legal Attache by telephone as soon as possible after the occurrence on board the vessel of an incident involving homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, any offense to which section 2241, 2242, 2243, or 2244(a) or (c) of title 18 applies, firing or tampering with the vessel, or theft of money or property in excess of $10,000 to report the incident;

''(ii) shall furnish a written report of the incident to an Internet based portal maintained by the Secretary of Transportation;

''(iii) may report any serious incident that does not meet the reporting requirements of clause (i) and that does not require immediate attention by the Federal Bureau of Investigation via the Internet based portal maintained by the Secretary of Transportation; and

''(iv) may report any other criminal incident involving passengers or crewmembers, or both, to the proper State or local government law enforcement authority.

''(B) INCIDENTS TO WHICH SUBPARAGRAPH (A) APPLIES.—Subparagraph (A) applies to an incident involving criminal activity if—

''(i) the vessel, regardless of registry, is owned, in whole or in part, by a United States person, regardless of the nationality of the victim or perpetrator, and the incident occurs when the vessel is within the admiralty and maritime jurisdiction of the United States and outside the jurisdiction of any State;

''(ii) the incident concerns an offense by or against a United States national committed outside the jurisdiction of any nation;

''(iii) the incident occurs in the Territorial Sea of the United States, regardless of the nationality of the vessel, the victim, or the perpetrator; or

''(iv) the incident concerns a victim or perpetrator who is a United States national on a vessel during a voyage that departed from or will arrive at a United States port.

''(4) AVAILABILITY OF INCIDENT DATA VIA INTERNET.—

''(A) WEBSITE.—The Secretary of Transportation shall maintain a statistical compilation of all incidents described in paragraph (3)(A)(i) on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed under paragraph (3)(A)(i) that are no longer under investigation by the Federal Bureau of Investigation. The data shall be updated no less frequently than quarterly, aggregated by cruise line, each cruise line shall be identified by name, and each crime shall be identified as to whether it was committed by a passenger or a crew member.

''(B) ACCESS TO WEBSITE.—Each cruise line taking on or discharging passengers in the United States shall include a link on its Internet website to the website maintained by the Secretary under subparagraph (A).

''(h) ENFORCEMENT.—

''(1) PENALTIES.—

''(A) CIVIL PENALTY.—Any person that violates this section or a regulation under this section shall be liable for a civil penalty of not more than $25,000 for each day during which the violation continues, except that the maximum penalty for a continuing violation is $50,000.

''(B) CRIMINAL PENALTY.—Any person that willfully violates this section or a regulation under this section shall be fined not more than $250,000 or imprisoned not more than 1 year, or both.

''(2) DENIAL OF ENTRY.—The Secretary may deny entry into the United States to a vessel to which this section applies if the owner of the vessel—

''(A) commits an act or omission for which a penalty may be imposed under this subsection; or

''(B) fails to pay a penalty imposed on the owner under this subsection.

''(i) PROCEDURES.—Within 6 months after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, the Secretary shall issue guidelines, training curricula, and inspection and certification procedures necessary to carry out the requirements of this section.

''(j) REGULATIONS.—The Secretary of Transportation and the Commandant shall each issue such regulations as are necessary to implement this section.

''(k) APPLICATION.—

''(1) IN GENERAL.—This section and section 3508 apply to a passenger vessel (as defined in section 2101(22)) that—

''(A) is authorized to carry at least 250 passengers;

''(B) has onboard sleeping facilities for each passenger;

''(C) is on a voyage that embarks or disembarks passengers in the United States; and

''(D) is not engaged on a coastwise voyage.

''(2) FEDERAL AND STATE VESSELS.—This section and section 3508 do not apply to a vessel of the United States operated by the Federal Government or a vessel owned and operated by a State.

''(l) OWNER DEFINED.—In this section and section 3508, the term 'owner' means the owner, charterer, managing operator, master, or other individual in charge of a vessel.

**''§ 3508. Crime scene preservation training for passenger vessel crewmembers**

''(a) IN GENERAL.—Within 1 year after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, the Secretary, in consultation with the Director of the Federal Bureau of Investigation and the Maritime Administration, shall develop training standards and curricula to allow for the certification of passenger vessel security personnel, crewmembers, and law enforcement officials on the appropriate methods for prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment. The Administrator of the Maritime Administration may certify organizations in the United States and abroad that offer the curriculum for training and certification under subsection (c).

''(b) MINIMUM STANDARDS.—The standards established by the Secretary under subsection (a) shall include—

''(1) the training and certification of vessel security personnel, crewmembers, and law enforcement officials in accordance with accepted law enforcement and security guidelines, policies, and procedures, including recommendations for incorporating a background check process for personnel trained and certified in foreign ports;

''(2) the training of students and instructors in all aspects of prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment; and

''(3) the provision or recognition of off-site training and certification courses in the United States and foreign countries to develop and provide the required training and certification described in subsection (a) and to enhance security awareness and security practices related to the preservation of evidence in response to crimes on board passenger vessels.

''(c) CERTIFICATION REQUIREMENT.—Beginning 2 years after the standards are established under subsection (b), no vessel to which this section applies may enter a United States port on a voyage (or voyage segment) on which a United States citizen is a passenger unless there is at least 1 crewmember onboard who is certified as having successfully completed training in the prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment on passenger vessels under subsection (a).

''(d) INTERIM TRAINING REQUIREMENT.—No vessel to which this section applies may enter a United States port on a voyage (or voyage segment) on which a United States citizen is a passenger unless there is at least 1 crewmember onboard who has been properly trained in the prevention detection, evidence preservation and the reporting requirements of criminal activities in the international maritime environment. The owner of a such a vessel shall maintain certification or other documentation, as prescribed by the Secretary, verifying the training of such individual and provide such documentation upon request for inspection in connection with enforcement of the provisions of this section. This subsection shall take effect 1 year after the date of enactment of the Cruise Vessel Safety and Security Act of 2009 and shall remain in effect until superseded by the requirements of subsection (c).

''(e) CIVIL PENALTY.—Any person that violates this section or a regulation under this section shall be liable for a civil penalty of not more than $50,000.

''(f) DENIAL OF ENTRY.—The Secretary may deny entry into the United States to a vessel to which this section applies if the owner of the vessel—

''(1) commits an act or omission for which a penalty may be imposed under subsection (e); or

''(2) fails to pay a penalty imposed on the owner under subsection (e).''.

(c) CLERICAL AMENDMENT.—The table of contents for such chapter is amended by adding at the end the following:

''3507. Passenger vessel security and safety requirements

''3508. Crime scene preservation training for passenger vessel crewmembers''.

(d) STUDY AND REPORT ON THE SECURITY NEEDS OF PASSENGER VESSELS.

(1) IN GENERAL.—Within 3 months after the date of enactment of this Act, the Secretary of the department in which the United

States Coast Guard is operating shall conduct a study of the security needs of passenger vessels depending on number of passengers on the vessels, and report to the Congress findings of the study and recommendations for improving security on those vessels.

(2) REPORT CONTENTS.—In recommending appropriate security on those vessels, the report shall take into account typical crewmember shifts, working conditions of crewmembers, and length of voyages.

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**SA 2415.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 215, between lines 2 and 3, insert the following:

SEC. 156. The Administrator of the Federal Railroad Administration, in cooperation with the Illinois Department of Transportation (IDOT), may provide technical and financial assistance to IDOT and local and county officials to study the feasibility of 10th Street, or other alternatives, in Springfield, Illinois, as a route for consolidated freight and passenger rail operations within the city of Springfield.

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**SA 2416.** Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 194, after line 23, add the following:

SEC. 1_____. (a) The table contained in section 3044(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1687) is amended in item 422 by striking the project description and inserting ''Anchorage People Mover transit needs, Anchorage, AK''.

(b) Notwithstanding any other provision of law, amounts made available for item 422 in the table referred to in subsection (a) for fiscal years 2006 and 2007 shall be available for obligation until September 30, 2010.

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**SA 2417.** Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 194, after line 23, add the following:

SEC. 1_____. Of the $1,000,000 appropriated under the heading ''GENERAL PROVISIONS'' under title III of division I of Public Law 108–7 (117 Stat. 406) for Juneau Heliport, Alaska, the unobligated balance shall be available for bridges owned by the city and borough of Juneau, Alaska.

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**SA 2418.** Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Notwithstanding any other provision of law, any funds available under the heading ''OEA–Fort Wainwright/Eielson AFB Track Realignment'' under the heading ''Operation and Maintenance, Defense-Wide'' in the Joint Explanatory Statement to accompany the Department of Defense Appropriations Act, 2007 (division A of Public Law 109–289) that remain available for expenditure as of the date of the enactment of this Act shall be available instead for ''Joint Tanana Range Access'' as provided in the Department of Defense Appropriations Act, 2009 (division C of Public Law 110–329).

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**SA 2419.** Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. The unexpended balance of $1,000,000 appropriated under the heading Next Generation High-Speed Rail under title I of division H of the Consolidated Appropriations Act, 2005 (Public Law 108–447) and designated in the Statement of Managers for ''Alaska RR luminescent grade crossings'', is reprogrammed for use by the Alaska Railroad to implement advanced traveler grade crossing information technology.

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**SA 2420.** Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. The $2,000,000 appropriated for surface transportation projects under section 115 of division F of the Consolidated Appropriations Act, 2004 (Public Law 108–199), and designated in the Statement of Managers for ''C Street Railroad Bypass, Alaska'', may be used by the Alaska Railroad for highway-rail crossings.

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**SA 2421.** Mr. KYL proposed an amendment to the bill H.R. 3288, making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end, add the following:

(1) Any amounts that are unobligated amounts for fiscal year 2010 for the American Recovery and Reinvestment Act that are available in a non-highway account receiving funds in this Act for fiscal year 2010 are rescinded.

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**SA 2422.** Mr. CASEY (for Mrs. FEINSTEIN (for herself and Mr. BOND)) proposed an amendment to the bill H.R. 1494, to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; as follows:

On page 99, between lines 2 and 3, insert the following:

(f) SUBMISSION TO THE CONGRESSIONAL JUDICIARY COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Justice, the Director shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

On page 113, strike line 1 and all that follows through page 116, line 19.

On page 121, strike line 9 and all that follows through page 122, line 9.

On page 161, line 5, insert ''(A)'' after ''(3)''.

On page 161, line 6, strike ''(A)'' and insert ''(i)''.

On page 161, line 10, strike ''(B)'' and insert ''(ii)''.

On page 161, line 14, strike ''(i)'' and insert ''(I)''.

On page 161, line 20, strike ''(ii)'' and insert ''(II)''.

On page 161, line 24, strike ''(iii)'' and insert ''(III)''.

On page 162, line 3, strike ''(C)'' and insert ''(iii)''.

On page 162, line 6, strike ''subparagraph (B)'' and insert ''clause (ii)''.

On page 162, line 7, strike ''(D)'' and insert ''(iv)''.

On page 162, beginning on line 10, strike ''subparagraph (B)'' and insert ''clause (ii)''.

On page 162, line 12, strike ''(E)'' and insert ''(v)''.

On page 162, between lines 18 and 19, insert the following:

''(B) The Inspector General shall submit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves an investigation, inspection, audit, or review carried out by the Inspector General focused on any current or former official of a component of such department simultaneously with submission of the report to the congressional intelligence committees.

On page 179, strike line 8 and all that follows through the matter following line 12 on page 188, and insert the following:

**SEC. 411. PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**

(a) IN GENERAL.—Title VII of the National Security Act of 1947 (50 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

''PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

''SEC. 706. (a) INAPPLICABILITY OF FOIA TO EXEMPTED OPERATIONAL FILES PROVIDED TO ODNI.—(1) Subject to paragraph (2), the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of a record shall not apply

to a record provided to the Office by an element of the intelligence community from the exempted operational files of such element.

''(2) Paragraph (1) shall not apply with respect to a record of the Office that—

''(A) contains information derived or disseminated from an exempted operational file, unless such record is created by the Office for the sole purpose of organizing such exempted operational file for use by the Office;

''(B) is disseminated by the Office to a person other than an officer, employee, or contractor of the Office; or

''(C) is no longer designated as an exempted operational file in accordance with this title.

''(b) EFFECT OF PROVIDING FILES TO ODNI.—Notwithstanding any other provision of this title, an exempted operational file that is provided to the Office by an element of the intelligence community shall not be subject to the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of a record solely because such element provides such exempted operational file to the Office.

''(c) DEFINITIONS.—In this section:

''(1) The term 'exempted operational file' means a file of an element of the intelligence community that, in accordance with this title, is exempted from the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of such file.

''(2) Except as otherwise specifically provided, the term 'Office' means the Office of the Director of National Intelligence.

''(d) SEARCH AND REVIEW FOR CERTAIN PURPOSES.—Notwithstanding subsection (a) or (b), exempted operational files shall continue to be subject to search and review for information concerning any of the following:

''(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

''(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

''(3) The specific subject matter of an investigation for any impropriety or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity by any of the following:

''(A) The Select Committee on Intelligence of the Senate.

''(B) The Permanent Select Committee on Intelligence of the House of Representatives.

''(C) The Intelligence Oversight Board.

''(D) The Department of Justice.

''(E) The Office.

''(F) The Office of the Inspector General of the Intelligence Community.

''(e) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of National Intelligence shall review the operational files exempted under subsection (a) to determine whether such files, or any portion of such files, may be removed from the category of exempted files.

''(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

''(3) A complainant that alleges that the Director of National Intelligence has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

''(A) Whether the Director has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010 or before the expiration of the 10-year period beginning on the date of the most recent review.

''(B) Whether the Director of National Intelligence, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

''(f) SUPERSEDURE OF OTHER LAWS.—The provisions of this section may not be superseded except by a provision of law that is enacted after the date of the enactment of this section and that specifically cites and repeals or modifies such provisions.

''(g) ALLEGATION; IMPROPER WITHHOLDING OF RECORDS; JUDICIAL REVIEW.—(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the Office has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

''(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

''(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the Office, such information shall be examined ex parte, in camera by the court.

''(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

''(C)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Office shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted files likely to contain responsive records are records provided to the Office by an element of the intelligence community from the exempted operational files of such element.

''(ii) The court may not order the Office to review the content of any exempted file or files in order to make the demonstration required under clause (i), unless the complainant disputes the Office's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

''(D) In proceedings under subparagraph (C), a party may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

''(E) If the court finds under this subsection that the Office has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Office to search and review the appropriate exempted file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this section.

''(F) If at any time following the filing of a complaint pursuant to this paragraph the Office agrees to search the appropriate exempted file or files for the requested records, the court shall dismiss the claim based upon such complaint.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 705 the following new item:

''Sec. 706. Protection of certain files of the Office of the Director of National Intelligence.''.

On page 214, line 6, insert '', the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives'' after ''committees''.

On page 252, line 8, strike ''2009,'' and insert ''2010,''.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on September 16, 2009, at 2:30 p.m., to hold a hearing entitled ''Exploring Three Strategies for Afghanistan.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on September 16, 2009, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on September 16, 2009, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MURRAY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on September 16, 2009, at 10 a.m. in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Oversight of the Federal Bureau of Investigation.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on September 16, 2009.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE AND SPACE

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Subcommittee on Science and Space of the Committee on Commerce, Science, and

Transportation be authorized to meet during the session of the Senate on September 16, 2009, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Amy Pope, a Justice Department legislative detailee in my office, be granted the privilege of the floor for the duration of this Congress.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 371, 372, and 373; that the nominations be confirmed en bloc and that the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements relating to the nominations appear in the appropriate place in the RECORD as if read; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

John M. McHugh, of New York, to be Secretary of the Army.

Joseph W. Westphal, of New York, to be Under Secretary of the Army.

Juan M. Garcia III, of Texas, to be an Assistant Secretary of the Navy.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

## INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2010

Mr. CASEY. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 120, S. 1494.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1494) to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mrs. FEINSTEIN. Mr. President, I rise today to speak about the Intelligence Authorization Act for fiscal year 2010, S. 1494, that the Senate has approved by unanimous consent.

The legislation is the product of a bipartisan effort in the Intelligence Committee, which was reflected by the committee's unanimous vote of 15 to 0 on the bill. I thank Vice Chairman BOND for his efforts on the legislation and the full committee staff for their work.

It has been 4 years since the Congress has passed and the President has signed an intelligence authorization act. This has meant that the law has not kept up with changes in the intelligence community and that Congress has not been able to require reforms and provide flexibilities that are sorely needed. I am pleased that the Senate has taken a major step toward enactment.

Before summarizing some of the key provisions of this legislation, let me briefly describe the way in which it was written.

The committee has worked with the Director of National Intelligence, DNI, ADM Dennis Blair, to identify areas where legislation is needed to better run and oversee the Nation's 16 intelligence agencies. Many of these provisions have been proposed and included in previous legislation reported out by the Intelligence Committee but have yet to be passed into law.

At the request of the White House, we have separated issues of terrorist detention and interrogation from this bill and the committee intends to take up legislation on those issues separately. The committee has not changed its position from previous legislation on the need to have an effective and humane interrogation program that operates fully within the nation's laws and international commitments.

The major themes of this bill are to strengthen the Director of National Intelligence to make sure that he has the management authorities and flexibilities needed to direct the intelligence community; insist upon stronger accountability and oversight mechanisms for intelligence activities, both within the executive branch and by the Congress; and to fund fully the intelligence community's share of the war efforts in Iraq and Afghanistan and the continuing counterterrorism operations against al-Qaida and other terrorist organizations worldwide.

There is also a classified annex to this bill, which lays out the authorized funding levels for the National Intelligence Program. The theme of the annex is to shift funds from intelligence activities that are less capable, lower priority, or not performing to those that will provide the Nation with better capabilities for intelligence collection, analysis, counterintelligence, and covert action.

The details of the classified annex are necessarily secret, but all Members are welcome to review them at the committee's offices at any time.

Let me describe some of the notable provisions in more detail.

To add to the management authorities of the Director of National Intelligence, the bill gives the Director of National Intelligence greater flexibility in personnel matters, including extending the length of time that personnel may be detailed to an intelligence agency to 3 years from the current 1 year. It also provides the Director, working with individual intelligence agencies, to shift or hire personnel by up to 5 percent above authorized personnel levels if intelligence requirements demand doing so. The bill authorizes the DNI to conduct accountability reviews of personnel and elements within the intelligence community, further clarifying that the Director is the senior official in the intelligence community. It seeks to prevent repetitions of information sharing problems by enabling the DNI to purchase necessary equipment or technology to improve information sharing with governmental departments or agencies regardless of whether they are part of the intelligence community. The bill also requires the intelligence community to continue putting in place the information technology necessary to assure information flows between its agencies.

The committee has longstanding concerns with the way the intelligence community has briefed, or has failed to brief, the congressional Intelligence Committees on all intelligence activities and covert actions. Two major controversies, over CIA detention and interrogation and over the warrantless surveillance program of the National Security Agency, were both briefed only to the chairman and vice chairman of the Senate Intelligence Committee. The rest of the committee's membership was unaware of these programs for years.

The bill strengthens the statutory requirements to keep the congressional intelligence committees ''fully and currently informed'' of intelligence activities and covert actions. The legislation makes clear that there is no exception to the obligation to brief Congress on intelligence activities and covert actions; requires that notifications include a description of the legal authority on which activities are undertaken; and requires that all committee members be provided with the broad outlines—the ''main features''—of intelligence programs in those instances where the sensitive operational details are provided only to a limited number of Senators.

In addition to ensuring that notifications to the Congress are conducted, the bill includes a number of additional provisions intended to strengthen intelligence oversight. These include creating an independent inspector general, confirmed by the Senate, to help the DNI oversee the intelligence community and strengthening the inspectors general of the National Security Agency, NSA, Defense Intelligence Agency, DIA, National Reconnaissance Office, NRO, and National Geospatial-Intelligence Agency, NGA, by listing them

under the Inspector General Act of 1978.

They include requiring Senate confirmation for the Directors of the National Security Agency, the National Reconnaissance Office, the National Geospatial-Intelligence Agency, and for the Deputy Director of the CIA. For several years, the Intelligence Committee has viewed these positions as holding substantial budgetary and policy responsibilities.

They also include improving the intelligence community's ability to budget, manage finances, and run program acquisitions. I am unable to state publicly why these provisions are so important, but it is fair to say that intelligence agencies have had major failures in this regard. In this bill, we have sought to apply best practices from other parts of the government to intelligence community management and acquisitions with the goal of more efficiently and effectively using taxpayer dollars to fund intelligence activities.

Finally, while I am unable to provide specifics due to reasons of classification, let me highlight five other parts of the bill and its classified annex that merit recognition.

Satellites. To address a problem created by years of mismanagement and acquisition failures, the annex to this bill recommends a more capable and more affordable imagery satellite architecture that addresses the requirements of both our civilian policymakers and military warfighters.

Languages. As our committee report notes, the intelligence community's language capabilities are abysmal. This bill authorizes increased funding to significantly improve language proficiencies. Rather than funding separate initiatives across the various intelligence agencies, this funding is provided to the Director of National Intelligence for allocation and coordination to maximize effectiveness.

Research and Development. The U.S. intelligence community leads the world in the technical collection of intelligence. This success is the result of decades of investment in research and development. The annex to this bill recommends increases in investment on research and development to return to the level of funding necessary to maintain the nation's technological edge.

Cybersecurity. The committee has held numerous hearings with the Acting Senior Director for Cybersecurity in the National Security Council, the Director of the National Security Agency, and the committee's Technical Advisory Group. I believe strongly that cyber attack and espionage by adversary nations and nonstate actors pose a grave threat to our Nation's national and economic security. I also believe, however, that initiatives underway to provide for security of the government's cyber networks need to be implemented and overseen carefully to ensure that privacy rights are upheld.

For this reason, the bill includes a provision that establishes a framework for executive and congressional oversight for cybersecurity. Specifically, it requires reporting to Congress on the legal authorities for cyber-security programs, privacy assessments, and details of the concept of operations for these activities. The provision also requires thorough auditing of cyber-security programs by the relevant inspectors general, especially to determine compliance with law and privacy rights. Finally, the provision authorizes the detail of cyber experts from the intelligence community to the Department of Homeland Security and FBI to assist in their roles in cyber defense and law enforcement. The annex to the bill also adjusts funding levels to ensure that the President's request for cyber-security activities are appropriately funded and are proceeding under clear legal and policy guidance.

Report on compliance with laws related to detention and interrogation. As I noted, the administration and our committee continue to conduct reviews of detention and interrogation practices begun after September 11, 2001. This bill requires the DNI to report on how the intelligence community complies with all laws, international obligations, and executive orders related to the detention and interrogation of persons under their control.

Following the reporting of our bill on July 22, we have worked with three committees of the Senate to resolve several questions.

We have worked with the Armed Services Committee to develop a Senate resolution that will govern the sequence of referral, between that committee and the Intelligence Committee, of nominations for Director of the National Security Agency, the National Reconnaissance Office, and the National Geospatial-Intelligence Agency. That resolution has the support of Chairman LEVIN and Ranking Member MCCAIN of the Armed Services Committee, as well as having my and Vice Chairman BOND's support. I will address the proposed resolution in a separate colloquy today with Chairman LEVIN.

We have worked with Ranking Member COCHRAN of the Appropriations Committee on an agreement to strike, in a managers' amendment, section 341 of the bill that would have expressed the sense of the Senate on an Appropriations Subcommittee on Intelligence. That internal Senate matter will continue to be discussed within the Senate but will not be a part of this bill.

We have worked with Chairman LEAHY of the Judiciary Committee to resolve several matters. The managers' amendment that Vice Chairman BOND and I have offered amends three provisions which require the submission of reports on various matters. The purpose of the amendments to sections 336, 407, and 445 is to ensure that the Judiciary Committee receives reports on matters within its jurisdiction. In consultation with the Office of the Director of National Intelligence, the managers' amendment amends section 411 on a FOIA operational file exemption to state more precisely the intent of the provision. The managers' amendment also strikes section 352 that establishes a FOIA exemption for terrorist identity information that is disseminated for terrorist screening purposes. As a comparable provision has been reported in the House, we expect that the provision will be the subject of further consideration at conference.

Mr. President, the vice chairman and I have worked hard to produce bipartisan legislation that provides the intelligence community with the tools and resources needed to keep the Nation safe and to inform decisionmakers. This bill does just that. It strikes a balance between allowing intelligence agencies the latitude to conduct their operations while ensuring their legality and efficiency.

I very much appreciate the Senate's approval of this legislation and look forward to bringing a conference report to the Senate as soon as possible.

Mr. BOND. Mr. President, for too many years, Congress has failed to pass an intelligence authorization bill that could be signed into law. We came close once, only to have our efforts derailed by a problematic interrogation provision. We have solved that problem this year, and now I believe we finally have a product that we can move forward with the hope that it will soon be signed into law.

The intelligence authorization bill before us will give the intelligence community the flexibility and authorities it needs to function effectively and will ensure appropriate intelligence oversight by this committee.

Over the past several months, we have worked closely with the administration and other committees to address their concerns over various provisions. Of course, some concerns were easier to resolve than others. But we are now at a point that I believe we can pass this bill through the Senate.

I have often said that in creating the Director of National Intelligence, we gave him an awful lot of responsibility without all the authority he needed. Well, our bill attempts to address that problem by giving the DNI clearer authority and greater flexibility in overseeing the intelligence community.

There are also a number of provisions in this bill that I believe are essential for promoting good government. Too often, we have seen programs or acquisitions of major systems balloon in cost and decrease in performance. That is unacceptable. We are in difficult economic times and the taxpayers are spending substantial sums of money to ensure that the intelligence community has the tools it needs to keep us safe. If we don't demand accountability for how these tools are operated or created, then we are failing the taxpayers, and we are failing the intelligence community.

So, for the past several years, I have sponsored amendments that require the intelligence community to perform vulnerability assessments of major systems and to keep track of excessive cost growth of major systems. This latter provision is modeled on the Nunn-McCurdy provision which has guided Defense Department acquisitions for years. I am happy to say that these provisions are part of this year's bill too. I believe that these, and other good-government provisions, will encourage earlier identification and solving of problems relating to the acquisition of major systems. Too often, such problems have not been identified until exorbitant sums of money have been spent—and, unfortunately, at that point, there is often reluctance to cancel the project.

Similarly, the intelligence community must get a handle on its personnel levels. Now, I do not share the belief that the Office of the Director of National Intelligence is too large; in fact, I think we need to make sure that our National Counterterrorism Center and National Counterproliferation Center have more resources, not less. However, I am concerned about the number of contractors used by the intelligence community to perform functions better left to government employees. There are some jobs that demand the use of contractors—for example, certain technical jobs or short-term functions—but too often, the quick fix is just to hire contractors, not long-term support. So, our bill includes a provision calling for annual personnel level assessments for the intelligence community. These assessments will ensure that, before more people are brought in, there are adequate resources to support them and enough work to keep them busy.

Finally, the CIA's interrogation program has been a hot topic over the past few months. This spring, the administration declassified several Office of Legal Counsel opinions pertaining to the program but redacted much of the information concerning its effectiveness. I am generally opposed to releasing information about some of our most sensitive intelligence sources and methods, but in this case, I believe the record needed to be set straight. So I sponsored an amendment, that was accepted by the committee, requiring the Director of the CIA to release an unclassified summary of several memos that discuss the effectiveness of the interrogation program. The American people may decide for themselves whether or not the CIA's program was effective in preventing terrorist attacks on our nation and our allies.

These are just a few of the provisions in this bill that I believe are important for the success of our intelligence collection efforts and equally important for ensuring sound oversight by the Intelligence Committee.

I commend Senator FEINSTEIN for her leadership in shepherding this bill through the committee and the Senate. I appreciated her willingness to work through the many issues raised throughout this process.

I ask my colleagues to support this bill so that we can get back on track with performing effective intelligence oversight.

CLARIFYING RESPONSIBILITIES OF COMMITTEES

Mrs. FEINSTEIN. Mr. President, section 432 of S. 1494, the Intelligence Authorization Act for Fiscal year 2010 that is before the Senate today, provides that the Directors of the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office shall be appointed by the President with the advice and consent of the Senate. For several years, the Select Committee on Intelligence has been seeking the enactment of legislation to provide for Senate confirmation of these important positions. The Senate has previously endorsed this effort by including this requirement in the proposed Intelligence Authorization for Fiscal Year 2008.

It is our strong hope that the time has come to enact this fundamental measure to ensure adequate oversight of these three agencies whose spending constitutes a significant portion of the entire intelligence budget. In preparation for that, my colleague at the Intelligence Committee, our vice chairman KIT BOND, and I have worked with the leadership of the Armed Services Committee, Chairman CARL LEVIN and Ranking Member JOHN MCCAIN, to settle on the process by which our two committees will assist the Senate in a careful examination of the qualifications of nominees to head these agencies. The insights of both committees is important in that process because the three entities are housed in the Department of Defense and perform significant responsibilities there while also being major components of the intelligence community.

The resolution that we have prepared recognizes the contribution that each of our committees should make to a thorough and timely process. It provides that if the nominee is an Active-Duty military officer, the confirmation process will begin in the Armed Services Committee and, if reported, the nomination will be sequentially referred to the Intelligence Committee for a prescribed period of time; namely, 30 days plus an additional 5 days if the 30-day period expires when the Senate is in recess. If the nominee is a civilian, the confirmation process will begin in the Intelligence Committee with a sequential referral to the Armed Services Committee under those same time limits. To ensure that the sequential referral does not delay completion of the committee part of the nomination process, the resolution provides for the automatic discharge of the nominations from the second committee if it has not reported with the prescribed period of time.

This referral system recognizes the equities of each committee and will ensure that the Senate receives the benefit of the recommendations made by the two committees with the expertise necessary to advise the Senate about the qualifications of nominees to head these three important agencies.

Although we are not formally introducing the resolution at this time, Vice Chairman BOND joins me in this public commitment to the Senate that we will ask our committee to report the resolution in time for consideration and adoption by the Senate in conjunction with a conference report on the fiscal year 2010 Intelligence authorization.

I ask unanimous consent that the full text of the resolution, showing its cosponsorship by myself, Senator LEVIN, Senator BOND, and Senator MCCAIN, be printed in the RECORD at the conclusion of the colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See Exhibit 1.]

Mrs. FEINSTEIN. I should note for the Senate that while the full text of the amendment includes language pertinent to other nominations, such as the Assistant Attorney General for National Security, the substantive change to section 17 of S. Res. 400 only bears on the sequence of responsibilities between the Armed Services and Intelligence Committees.

I now turn to Senator LEVIN for his remarks.

Mr. LEVIN. I would like to express my support for the proposed resolution which I believe will enable both of our committees to fulfill their responsibilities for ensuring that the nominations to head these important intelligence elements within the Department of Defense are thoroughly considered. I thank my distinguished colleague on the Armed Services Committee, our ranking member, Senator MCCAIN, and our colleagues on the Intelligence Committee for reaching this agreement.

EXHIBIT 1

111TH CONGRESS
1ST SESSION

S. RES. ____

Amending Senate Resolution 400 (94th Congress) to clarify the responsibility of committees of the Senate in the provision of the advice and consent of the Senate to nominations to positions in the intelligence community.

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IN THE SENATE OF THE UNITED STATES

Mrs. FEINSTEIN (for herself, Mr. LEVIN, Mr. BOND, and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on _____

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## RESOLUTION

Amending Senate Resolution 400 (94th Congress) to clarify the responsibility of committees of the Senate in the provision of the advice and consent of the Senate to nominations to positions in the intelligence community.

*Resolved,* That section 17 of Senate Resolution 400 (94th Congress) is amended to read as follows:

''SEC. 17. (a)(1) Except as provided in subsection (b), the select committee shall have jurisdiction to review, hold hearings, and report the nominations of individuals for positions in the intelligence community for

which appointments are made by the President, by and with the advice and consent of the Senate.

''(2) Except as provided in subsection (b), a committee with jurisdiction over the department or agency of the Executive Branch within which is a position referred to in paragraph (1) may hold hearings and interviews with individuals nominated for such position, but only the select committee shall report such nomination.

''(3) In this subsection, the term 'intelligence community' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947.

''(b)(1) With respect to the confirmation of appointment to the position of Assistant Attorney General for National Security, or any successor position, the nomination of any individual by the President to serve in such position shall be referred to the Committee on the Judiciary and, if and when reported, to the select committee for not to exceed 20 calendar days, except that in cases when the 20-day period expires while the Senate is in recess, the select committee shall have 5 additional calendar days after the Senate reconvenes to report the nomination.

''(2)(A) With respect to the confirmation of appointment to the position of Director of the National Geospatial-Intelligence Agency, Director of the National Reconnaissance Office, or Director of the National Security Agency, or any successor position to such position, the nomination of any individual by the President to serve in such position, who at the time of the nomination is a member of the Armed Forces on active duty, shall be referred to the Committee on Armed Services, and, if and when reported, to the select committee for not to exceed 30 calendar days, except that in cases when the 30-day period expires while the Senate is in recess, the select committee shall have 5 additional calendar days after the Senate reconvenes to report the nomination.

''(B) With respect to the confirmation of appointment to the position of Director of the National Geospatial-Intelligence Agency, Director of the National Reconnaissance Office, or Director of the National Security Agency, or any successor to such position, the nomination of any individual by the President to serve in such position, who at the time of the nomination is not a member of the Armed Forces on active duty, shall be referred to the select committee and, if and when reported, to the Committee on Armed Services for not to exceed 30 calendar days, except that in cases when the 30-day period expires while the Senate is in recess, the Committee on Armed Services shall have an additional 5 calendar days after the Senate reconvenes to report the nomination.

''(3) If, upon the expiration of the period of sequential referral described in paragraphs (1) and (2), the committee to which the nomination was sequentially referred has not reported the nomination, the nomination shall be automatically discharged from that committee and placed on the Executive Calendar.''.

Mr. LEAHY. Mr. President, today the Senate will pass the amended Intelligence Authorization Act for fiscal year 2010, S.1494. I appreciate the commitment of Senator FEINSTEIN, the chair of the Senate Select Committee on Intelligence, to work with me to strengthen this important legislation. The bill the Senate has approved recognizes the shared jurisdiction of the Committee on the Judiciary, and the Select Committee on Intelligence, in several legislative areas.

The first opportunity to review this legislation arose on August 5, shortly before the Senate was scheduled to recess, and in the midst of the debate on the confirmation of Associate Justice Sonia Sotomayor. At that time, I recognized several provisions in the bill that fall under the jurisdiction of the Judiciary Committee, as well as issues about which the committee shares an interest with the Select Committee on Intelligence. Since that time, Senator FEINSTEIN and I, as well as our staffs, have engaged in serious negotiations concerning these provisions. We negotiated agreements regarding exemptions to the Freedom of Information Act, FOIA, as well as numerous reporting requirements, such as a significant, new requirement for the Federal Bureau of Investigation, FBI, an agency clearly under the jurisdiction of the Judiciary Committee, and an important new cybersecurity oversight provision.

The amendment to the intelligence authorization bill agreed to today identifies the Judiciary Committee as a recipient of relevant reporting provisions, narrows the operational files FOIA exemption for information provided by intelligence agencies to the Office of the Director of National Intelligence, ODNI, and strikes a FOIA (b)(3) exemption for terrorist identity information. Senator FEINSTEIN has told me she is also committed to ensuring that the Judiciary Committee will receive reports required by the bill's section 340, cybersecurity oversight. I appreciate Senator FEINSTEIN's support for these improvements.

The intelligence authorization bill includes several reporting requirements that involve areas of long-standing interest and jurisdiction of the Judiciary Committee. The amended bill ensures that the Judiciary Committee is a recipient of those reports. Section 336 of the bill directs the Director of National Intelligence to provide a comprehensive report on all measures taken by the Office of the Director of National Intelligence and by elements of the intelligence community to comply with the provisions of applicable law, international obligations, and executive orders relating to the detention or interrogation activities of the intelligence community. These include compliance with the Detainee Treatment Act of 2005; the Military Commissions Act of 2006; common Article 3 of the Geneva Conventions; the Convention Against Torture; Executive Order 13492, relating to lawful interrogations; and Executive Order No. 13493, relating to detention policy options.

The amendment to the intelligence authorization bill modifies section 336 to ensure that to the extent that the report addresses an element of the intelligence community within the Department of Justice, it shall be submitted, along with associated material, to the Judiciary Committees of the House and Senate.

I fought for years to obtain information about the Bush administration's detention and interrogation policies and practices, and the legal advice from that administration authorizing those policies and practices. The last administration refused to give this information to Congress, instead issuing secret legal advice that misconstrued our laws and international obligations with regard to the treatment of people in our custody. Years later we found out that the administration had sanctioned cruel interrogation techniques, including torture. It is imperative that the Judiciary Committee be fully informed of the extent to which the government is complying with our laws and international treaties relating to detention and interrogation in order to be able to conduct proper oversight and ensure that our government cannot shield policies that authorize practices in violation of our laws. The Judiciary Committee is an important partner in this oversight.

Section 407 of the bill establishes a new office of inspector general of the intelligence community to conduct independent investigations, inspections, audits and reviews on programs and activities conducted under the authority of the Director of National Intelligence. Under this new authority, the inspector general is required to submit a semiannual report to the Director of National Intelligence summarizing its activities. The amendment incorporated into S.1494 modifies the reporting provision to require the inspector general to submit reports that focus on Government officials to the committees of the Senate and the House of Representatives with jurisdiction over the department that official represents.

Section 407 of the bill creates an entirely new inspector general with significant authority and responsibility in the intelligence community. That authority will implicate agencies within the jurisdiction of the Judiciary Committee, including the Department of Justice and components of the Department of Homeland Security. I believe this modification to the bill provides an important recognition of the Judiciary Committee's need to be involved in the investigations and activities of this new inspector general.

Another significant new provision is section 445 of the bill, report and assessment on transformation of the intelligence capabilities of the Federal Bureau of Investigation, which creates a broad new reporting requirement for the FBI. The Judiciary Committee has always had primary oversight over the FBI. As the FBI takes on more responsibility in the areas of intelligence and national security, its policies and practices in these areas must be subject to the oversight of Congress. The Intelligence Committees have particular expertise that make them an important partner in this oversight. However, it is the Judiciary Committee that has the primary legislative and oversight responsibilities over the FBI.

I am very pleased that the amendment adopted today contains several

important improvements that I recommended to strengthen FOIA. I am particularly pleased that the bill, as amended, deletes a broad and unnecessary exemption to FOIA's disclosure requirements for terrorist identity information.

No one would quibble with the notion that our government can—and should—keep some information secret to protect our national security. But, in the case of terrorist identity information, our government has successfully withheld this sensitive information under the existing FOIA exemptions for classified and law enforcement information. In addition, the many instances of mistaken identities and other errors on terrorist watchlists and ''no-fly'' lists make it clear that FOIA can be a valuable tool to help innocent Americans redress and correct mistakes on these lists.

Lastly, the revised bill also narrows the exemption to FOIA's search requirements for operational files information that the Nation's intelligence agencies share with the ODNI. The bill now makes it clear that operational files that are already exempt from these search requirements retain this exemption under circumstances where the files are disseminated to the ODNI. This carefully crafted compromise will help ensure both effective information sharing among our intelligence agencies and the free flow of information to the American public.

I believe the amendment strengthens this legislation by recognizing the value and significance of the shared jurisdiction in many areas of national security between the Judiciary and Intelligence Committees. I appreciate Senator FEINSTEIN's cooperation in adopting these improvements. In a letter sent to me today, Senator FEINSTEIN has also committed to continuing to work with the Judiciary Committee in the area of cyber matters. I will ask to have her letter printed in the RECORD.

The agreement to proceed with the intelligence authorization bill today includes a commitment to ensure that the Judiciary Committee receives reports required by the bill's section 340, cybersecurity oversight. The Judiciary Committee has long engaged in oversight and legislative activity regarding cyber threats and cybersecurity. Senator FEINSTEIN and I have worked together in the Judiciary Committee for many years on these issues, and we both recognize the shared jurisdiction and responsibilities of the Judiciary and Intelligence Committees with regard to oversight of cyber matters and cybersecurity.

As Senator FEINSTEIN has described it, section 340 of the bill is intended to provide a preliminary framework for executive and congressional oversight of cybersecurity programs, as defined in the section, to ensure that these programs are consistent with legal authorities, preserve reasonable expectations of privacy, and are subject to independent audit and review. Section 340 of the bill creates several reporting requirements with regard to the executive and congressional oversight of cybersecurity programs. These include Presidential notifications to Congress, reports to Congress and the President from the head of a department or agency with responsibility for cybersecurity programs, in conjunction with the inspector general of that department or agency, and a joint report to Congress and the President from the inspector general of the Department of Homeland Security and the inspector general of the intelligence community on the status of the sharing of cyber threat information within one year. I look forward to continuing to work with Senator FEINSTEIN in the Judiciary Committee and in the Senate to ensure strong oversight and legislation with regard to cyber matters.

I am pleased the Senate today will pass the amended Intelligence Authorization Act for Fiscal Year 2010. The progress that Senator FEINSTEIN and I have made to improve this bill demonstrates the success we can have when we work together constructively.

Mr. President. I ask unanimous consent to have the letter to which I referred printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
*Washington, DC, September 15, 2009.*

Hon. PATRICK LEAHY,
*Chairman, Committee on the Judiciary, Washington, DC.*

DEAR CHAIRMAN LEAHY: As you know, our staffs have been in discussions since the beginning of recess over various provisions of S. 1494, the Intelligence Authorization Act for Fiscal Year 2010, ordered reported from the Committee on July 22, 2009. Among the provisions at issue is Section 340, Cybersecurity Oversight.

Section 340 is intended to provide a preliminary framework for executive and congressional oversight of cybersecurity programs, as defined in the section, to ensure that these programs are consistent with legal authorities, preserve reasonable expectations of privacy, and are subject to independent audit and review.

Section 340 contains several reporting requirements. One requires the President to provide certain notifications to Congress. In addition, the head of a department or agency with responsibility for cybersecurity programs, in conjunction with the inspector general of that department or agency, is to submit to Congress and the President periodic reports on the program. Finally, the Inspector General of the Department of Homeland Security and the Inspector General of the Intelligence Community are jointly to submit a report to Congress and the President on the status of the sharing of cyber threat information within one year.

Under the provision as reported, notifications and reports under the section are to be submitted ''to the Congress.'' Vice Chairman Bond and I have consulted with the Senate parliamentarian to convey our recommendations for how referrals of notifications and reports under the section should be made.

As we have discussed before, cybersecurity is a matter of interest to many of the committees of the Senate. Of note is the longstanding interest in, and jurisdiction over, cyber matters by the Judiciary Committee. This includes but is not necessarily limited to the cybersecurity of the Justice Department and other departments and agencies under the Committee's jurisdiction, privacy interests of the American people, and legal dimensions of the government's cyber activities. Given the Judiciary Committee's role in these matters and the expectation that reports under Section 340 will touch on one or more of the Committee's areas of jurisdiction, it is my strong belief that documents provided to the Congress should be provided to the Judiciary Committee.

In addition, should the Intelligence Committee receive reports under this section that are within the jurisdiction of the Judiciary Committee but that are not provided to the Judiciary Committee, I will ensure that access to those reports is provided to Judiciary Committee members and staff as appropriate.

Thank you for your cooperation over this issue, and other provisions of the intelligence legislation.

Sincerely,

DIANNE FEINSTEIN,
*Chairman.*

Mr. CASEY. Mr. President, I ask unanimous consent that the Feinstein-Bond amendment, which is at the desk, be considered and agreed to and that the motion to reconsider be laid upon the table, that the bill as amended be read a third time, passed, that the motion to reconsider be laid upon the table, and that any statements be printed at the appropriate place in the RECORD as if read with the above occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2422) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (S. 1494), as amended, was read the third time and passed, as follows:

S. 1494

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Intelligence Authorization Act for Fiscal Year 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

**SEC. 2. DEFINITIONS.**

In this Act:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term ''congressional intelligence committees'' means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) INTELLIGENCE COMMUNITY.—The term ''intelligence community'' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

## TITLE I—BUDGET AND PERSONNEL AUTHORIZATIONS

### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2010 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Office of the Director of National Intelligence.

(2) The Central Intelligence Agency.

(3) The Department of Defense.

(4) The Defense Intelligence Agency.

(5) The National Security Agency.

(6) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(7) The Coast Guard.

(8) The Department of State.

(9) The Department of the Treasury.

(10) The Department of Energy.

(11) The Department of Justice.

(12) The Federal Bureau of Investigation.

(13) The Drug Enforcement Administration.

(14) The National Reconnaissance Office.

(15) The National Geospatial-Intelligence Agency.

(16) The Department of Homeland Security.

### SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL LEVELS.—The amounts authorized to be appropriated under section 101 and, subject to section 103, the authorized personnel levels (expressed as full-time equivalent positions) as of September 30, 2010, for the conduct of the intelligence activities of the elements listed in paragraphs (1) through (16) of section 101, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill ____ of the One Hundred Eleventh Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The classified Schedule of Authorizations referred to in subsection (a) shall be made available to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

### SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR INCREASES.—The Director of National Intelligence may authorize the employment of civilian personnel in excess of the number of full-time equivalent positions for fiscal year 2010 authorized by the classified Schedule of Authorizations referred to in section 102(a) if the Director of National Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 5 percent of the number of civilian personnel authorized under such section for such element.

(b) AUTHORITY FOR CONVERSION OF ACTIVITIES PERFORMED BY CONTRACT PERSONNEL.—

(1) IN GENERAL.—In addition to the authority in subsection (a) and subject to paragraph (2), if the head of an element of the intelligence community makes a determination that activities currently being performed by contract personnel should be performed by employees of such element, the Director of National Intelligence, in order to reduce a comparable number of contract personnel, may authorize for that purpose employment of additional full-time equivalent personnel in such element equal to the number of full-time equivalent contract personnel performing such activities.

(2) CONCURRENCE AND APPROVAL.—The authority described in paragraph (1) may not be exercised unless the Director of National Intelligence concurs with the determination described in such paragraph.

(c) TREATMENT OF CERTAIN PERSONNEL.—The Director of National Intelligence shall establish guidelines that govern, for each element of the intelligence community, the treatment under the personnel levels authorized under section 102(a), including any exemption from such personnel levels, of employment or assignment in—

(1) a student program, trainee program, or similar program;

(2) a reserve corps or as a reemployed annuitant; or

(3) details, joint duty, or long term, full-time training.

(d) NOTICE TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—The Director of National Intelligence shall notify the congressional intelligence committees in writing at least 15 days prior to the initial exercise of an authority described in subsection (a) or (b).

### SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of National Intelligence for fiscal year 2010 the sum of $786,812,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2011.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of National Intelligence are authorized 792 full-time equivalent personnel as of September 30, 2010. Personnel serving in such elements may be permanent employees of the Office of the Director of National Intelligence or personnel detailed from other elements of the United States Government.

(c) CONSTRUCTION OF AUTHORITIES.—The authorities available to the Director of National Intelligence under section 103 are also available to the Director for the adjustment of personnel levels within the Intelligence Community Management Account.

(d) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are authorized to be appropriated for the Community Management Account for fiscal year 2010 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for advanced research and development shall remain available until September 30, 2011.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2010, there are authorized such additional full-time equivalent personnel for the Community Management Account as of that date as are specified in the classified Schedule of Authorizations referred to in section 102(a).

### SEC. 105. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

## TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

### SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2010 the sum of $290,900,000.

### SEC. 202. TECHNICAL MODIFICATION TO MANDATORY RETIREMENT PROVISION OF THE CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.

Subparagraph (A) of section 235(b)(1) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2055(b)(1)) is amended by striking ''receiving compensation under the Senior Intelligence Service pay schedule at the rate'' and inserting ''who is at the Senior Intelligence Service rank''.

## TITLE III—GENERAL INTELLIGENCE COMMUNITY MATTERS

### Subtitle A—Personnel Matters

### SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

### SEC. 302. ENHANCED FLEXIBILITY IN DETAILS TO ELEMENTS OF THE INTELLIGENCE COMMUNITY.

Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h) and section 904(g)(2) of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402c(g)(2)) and notwithstanding any other provision of law, an officer or employee of the United States or member of the Armed Forces may be detailed to the staff of an element of the intelligence community funded through the National Intelligence Program from another element of the intelligence community or from another element of the United States Government on a reimbursable or nonreimbursable basis, as jointly agreed to by the head of the receiving element and the head of the detailing element (or the designees of such officials), for a period not to exceed 3 years.

### SEC. 303. ENHANCEMENT OF AUTHORITY OF THE DIRECTOR OF NATIONAL INTELLIGENCE FOR FLEXIBLE PERSONNEL MANAGEMENT AMONG THE ELEMENTS OF THE INTELLIGENCE COMMUNITY.

Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended by adding at the end the following new subsections:

''(s) AUTHORITY TO ESTABLISH POSITIONS IN EXCEPTED SERVICE.—(1) The Director of National Intelligence may, with the concurrence of the head of the department or agency concerned and in coordination with the Director of the Office of Personnel Management—

''(A) convert competitive service positions, and the incumbents of such positions, within an element of the intelligence community to excepted service positions as the Director of National Intelligence determines necessary to carry out the intelligence functions of such element; and

''(B) establish the classification and ranges of rates of basic pay for positions so converted, notwithstanding otherwise applicable laws governing the classification and rates of basic pay for such positions.

''(2)(A) At the request of the Director of National Intelligence, the head of a department or agency may establish new positions

in the excepted service within an element of such department or agency that is part of the intelligence community if the Director determines that such positions are necessary to carry out the intelligence functions of such element.

''(B) The Director of National Intelligence may establish the classification and ranges of rates of basic pay for any position established under subparagraph (A), notwithstanding otherwise applicable laws governing the classification and rates of basic pay for such positions.

''(3) The head of the department or agency concerned is authorized to appoint individuals for service in positions converted under paragraph (1) or established under paragraph (2) without regard to the provisions of chapter 33 of title 5, United States Code, governing appointments in the competitive service, and to fix the compensation of such individuals within the applicable ranges of rates of basic pay established by the Director of National Intelligence.

''(4) The maximum rate of basic pay established under this subsection is the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(5) Not later than 60 days prior to the date that Director of National Intelligence will convert a position under paragraph (1) or establish a position under paragraph (2), the Director shall submit to the congressional intelligence committees a notification of such conversion or establishment.

''(t) PAY AUTHORITY FOR CRITICAL POSITIONS.—(1) Notwithstanding any pay limitation established under any other provision of law applicable to employees in elements of the intelligence community, the Director of National Intelligence may, in coordination with the Director of the Office of Personnel Management and the Director of the Office of Management and Budget, grant authority to fix the rate of basic pay for 1 or more positions within the intelligence community at a rate in excess of any applicable limitation, subject to the provisions of this subsection. The exercise of authority so granted is at the discretion of the head of the department or agency employing the individual in a position covered by such authority, subject to the provisions of this subsection and any conditions established by the Director of National Intelligence when granting such authority.

''(2) Authority under this subsection may be granted or exercised only—

''(A) with respect to a position which requires an extremely high level of expertise and is critical to successful accomplishment of an important mission; and

''(B) to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

''(3) A rate of basic pay may not be fixed under this subsection at a rate greater than the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code, except upon written approval of the Director of National Intelligence or as otherwise authorized by law.

''(4) A rate of basic pay may not be fixed under this subsection at a rate greater than the rate payable for level I of the Executive Schedule under section 5312 of title 5, United States Code, except upon written approval of the President in response to a request by the Director of National Intelligence or as otherwise authorized by law.

''(5) Any grant of authority under this subsection for a position shall terminate at the discretion of the Director of National Intelligence.

''(6) The Director of National Intelligence shall notify the congressional intelligence committees within 30 days of any grant or exercise of authority under this subsection.

''(u) EXTENSION OF FLEXIBLE PERSONNEL MANAGEMENT AUTHORITIES.—(1) Notwithstanding any other provision of law, in order to ensure the equitable treatment of employees across the intelligence community, the Director of National Intelligence may, with the concurrence of the head of the department or agency concerned, or for those matters that fall under the responsibilities of the Office of Personnel Management under statute or executive order, in coordination with the Director of the Office of Personnel Management, authorize 1 or more elements of the intelligence community to adopt compensation authority, performance management authority, and scholarship authority that have been authorized for another element of the intelligence community if the Director of National Intelligence—

''(A) determines that the adoption of such authority would improve the management and performance of the intelligence community; and

''(B) submits to the congressional intelligence committees, not later than 60 days before such authority is to take effect, notice of the adoption of such authority by such element or elements, including the authority to be so adopted, and an estimate of the costs associated with the adoption of such authority.

''(2) To the extent that an existing compensation authority within the intelligence community is limited to a particular category of employees or a particular situation, the authority may be adopted in another element of the intelligence community under this subsection only for employees in an equivalent category or in an equivalent situation.

''(3) In this subsection, the term 'compensation authority' means authority involving basic pay (including position classification), premium pay, awards, bonuses, incentives, allowances, differentials, student loan repayments, and special payments, but does not include authorities as follows:

''(A) Authorities related to benefits such as leave, severance pay, retirement, and insurance.

''(B) Authority to grant a rank award by the President under section 4507, 4507a, or 3151(c) of title 5, United States Code, or any other provision of law.

''(C) Compensation authorities and performance management authorities provided under provisions of law relating to the Senior Executive Service.''.

**SEC. 304. AWARD OF RANK TO MEMBERS OF THE SENIOR NATIONAL INTELLIGENCE SERVICE.**

Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), as amended by section 303, is further amended by adding at the end the following:

''(v) AWARD OF RANK TO MEMBERS OF THE SENIOR NATIONAL INTELLIGENCE SERVICE.—The President, based on the recommendations of the Director of National Intelligence, may award ranks to members of the Senior National Intelligence Service and other intelligence community senior civilian officers not already covered by such a rank award program in a manner consistent with the provisions of section 4507 of title 5, United States Code. The award of such rank shall be made per the direction of the Director of National Intelligence and in a manner consistent with the provisions of such section 4507.''.

**SEC. 305. ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY.**

(a) ASSESSMENT.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by inserting after section 506A the following new section:

**''SEC. 506B. ANNUAL PERSONNEL LEVEL ASSESSMENTS FOR THE INTELLIGENCE COMMUNITY.**

''(a) REQUIREMENT TO PROVIDE.—The Director of National Intelligence shall for the Office of the Director of National Intelligence and, in consultation with the head of the element of the intelligence community concerned, prepare an annual personnel level assessment for such element of the intelligence community that assesses the personnel levels for each such element for the fiscal year following the fiscal year in which the assessment is submitted.

''(b) SCHEDULE.—Each assessment required by subsection (a) shall be submitted to the congressional intelligence committees each year along with the budget submitted by the President under section 1105 of title 31, United States Code.

''(c) CONTENTS.—Each assessment required by subsection (a) submitted during a fiscal year shall contain the following information for the element of the intelligence community concerned:

''(1) The budget submission for personnel costs for the upcoming fiscal year.

''(2) The dollar and percentage increase or decrease of such costs as compared to the personnel costs of the current fiscal year.

''(3) The dollar and percentage increase or decrease of such costs as compared to the personnel costs during the prior 5 fiscal years.

''(4) The number of full-time equivalent positions that is the basis for which personnel funds are requested for the upcoming fiscal year.

''(5) The numerical and percentage increase or decrease of such number as compared to the number of full-time equivalent positions of the current fiscal year.

''(6) The numerical and percentage increase or decrease of such number as compared to the number of full-time equivalent positions during the prior 5 fiscal years.

''(7) The best estimate of the number and costs of contract personnel to be funded by the element for the upcoming fiscal year.

''(8) The numerical and percentage increase or decrease of such costs of contract personnel as compared to the best estimate of the costs of contract personnel of the current fiscal year.

''(9) The numerical and percentage increase or decrease of such costs of contract personnel as compared to the cost of contract personnel, and the number of contract personnel, during the prior 5 fiscal years.

''(10) A justification for the requested personnel and contract personnel levels.

''(11) The number of intelligence collectors and analysts employed or contracted by each element of the intelligence community.

''(12) A list of all contract personnel who have been the subject of an investigation or review completed by the inspector general of any element of the intelligence community during the preceding fiscal year, or are or have been the subject of an investigation or review by such an inspector general during the current fiscal year.

''(13) A statement by the Director of National Intelligence that, based on current and projected funding, the element concerned will have sufficient—

''(A) internal infrastructure to support the requested personnel and contract personnel levels;

''(B) training resources to support the requested personnel levels; and

''(C) funding to support the administrative and operational activities of the requested personnel levels.''.

(b) APPLICABILITY DATE.—The first assessment required to be submitted under section 506B(b) of the National Security Act of 1947, as added by subsection (a), shall be submitted with the budget for fiscal year 2011

submitted to Congress by the President under section 1105 of title 31, United States Code.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 506A the following new item:

''Sec. 506B. Annual personnel levels assessment for the intelligence community.''.

**SEC. 306. TEMPORARY PERSONNEL AUTHORIZATIONS FOR CRITICAL LANGUAGE TRAINING.**

(a) FINDINGS.—Congress makes the following findings:

(1) In 2009, eight years after the terrorist attacks of September 11, 2001, the intelligence community continues to lack an adequate supply of personnel trained in critical foreign languages.

(2) A number of elements of the intelligence community are attempting to address that lack of supply by recruiting applicants who can speak, read, and understand critical foreign languages.

(3) Leaders in the intelligence community have recognized that improved recruiting practices are only a partial solution and that improved language training for current intelligence community employees is also necessary.

(4) While language education and instruction provides long-term benefits for both intelligence agencies and individual employees, it has short-term costs for supervisors whose staff are absent due to language training and could provide supervisors with an incentive to resist allowing individual employees to pursue language training.

(5) If the head of an element of the intelligence community was able to increase the number of personnel at that element during the period that an employee is participating in language training, that element would not have to sacrifice short-term priorities to address language training needs.

(6) The Director of National Intelligence is uniquely situated to evaluate language training needs across the intelligence community and assess whether that training would be enhanced if elements of the intelligence community were given temporary additional personnel authorizations.

(7) The intelligence community has a difficult time finding, training, and providing security clearances to native foreign language speakers who are able to serve as translators and it would be beneficial if all elements of the intelligence community were able to harness the capabilities of these individuals.

(8) The Director of National Intelligence is uniquely situated to identify translators within the intelligence community and provide for their temporary transfer from one element of the intelligence community to another element.

(b) TEMPORARY PERSONNEL AUTHORIZATIONS.—

(1) AUTHORIZED ADDITIONAL FTES.—In addition to the number of full-time equivalent positions authorized for the Office of the Director of National Intelligence for a fiscal year, there is authorized for such Office for each fiscal year an additional 100 full-time equivalent positions that may be utilized only for the purposes described in paragraph (2).

(2) PURPOSES.—The Director of National Intelligence may use a full-time equivalent position authorized under paragraph (1) only for the purposes of providing a temporary transfer of personnel made pursuant to the authority in section 102A(e)(2) of the National Security Act of 1947 (50 U.S.C. 403–1(e)(2)) to an element of the intelligence community to enable such element to increase its total authorized number of personnel, on a temporary basis—

(A) during a period in which a permanent employee of such element is absent to participate in critical language training; or

(B) to accept a permanent employee of another element of the intelligence community to provide language-capable services a temporary basis.

(c) INAPPLICABILITY OF OTHER LAW.—Subparagraph (B) of section 102A(e)(2) of the National Security Act of 1947 (50 U.S.C. 403–1(e)(2)) shall not apply to a transfer of personnel authorizations made under this section.

(d) REPORTING REQUIREMENTS.—

(1) REPORT TO THE DIRECTOR OF NATIONAL INTELLIGENCE.—An element of the intelligence community that receives a temporary transfer of personnel authorized under subsection (b) shall submit to the Director of National Intelligence a report on such transfer that includes the length of time of the temporary transfer and which critical language need of such element was fulfilled or partially fulfilled by the transfer.

(2) ANNUAL REPORT TO CONGRESS.—The Director of National Intelligence shall submit to the congressional intelligence committees an annual report on this section. Each such report shall include a description of—

(A) the number of transfers of personnel made by the Director pursuant to subsection (b), disaggregated by each element of the intelligence community;

(B) the critical language that needs were fulfilled or partially fulfilled through the use of such transfers; and

(C) the cost to carry out subsection (b).

**Subtitle B—Education Programs**

**SEC. 311. PERMANENT AUTHORIZATION FOR THE PAT ROBERTS INTELLIGENCE SCHOLARS PROGRAM.**

(a) IN GENERAL.—Subsection (a) of section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 441g note) is amended—

(1) in the heading, by striking ''PILOT PROGRAM'' and inserting ''IN GENERAL'';

(2) in paragraph (1)—

(A) by striking ''pilot''; and

(B) by inserting '', acquisition, scientific, and technical, or other'' after ''analytic'' in both places that term appears;

(3) in paragraph (2), by striking ''pilot''; and

(4) in paragraph (3), by striking ''pilot''.

(b) ELEMENTS.—Subsection (b) of section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 411g note) is amended—

(1) in the matter preceding paragraph (1), by striking ''pilot'';

(2) in paragraph (1), by striking ''analysts'' and inserting ''professionals''; and

(3) in paragraph (2), by inserting '', acquisition, scientific, and technical, or other'' after ''analytic''.

(c) PERMANENT AUTHORIZATION.—Section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 411g note) is amended by striking subsections (c), (d), (e), (f), and (g).

(d) USE OF FUNDS.—Section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 411g note), as amended by subsection (c), is further amended by adding at the end the following:

''(c) USE OF FUNDS.—Funds made available for the program may be used for the following purposes:

''(1) To provide a monthly stipend for each month that the individual is pursing a course of study described in subsection (a).

''(2) To pay such individual's full tuition to permit the individual to complete such a course of study.

''(3) To provide an allowance for books and materials that such individual requires to complete such a course of study.

''(4) To pay such individual's expenses for travel as requested by an element of the intelligence community related to the program.''.

(e) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The section heading of section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 117 Stat. 2613) is amended to read as follows:

**''SEC. 318. PAT ROBERTS INTELLIGENCE SCHOLARS PROGRAM.''.**

(2) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 117 Stat. 2599) is amended by striking the item relating to section 318 and inserting the following:

''Sec. 318. Pat Roberts Intelligence Scholars Program.''.

**SEC. 312. MODIFICATIONS TO THE LOUIS STOKES EDUCATIONAL SCHOLARSHIP PROGRAM.**

(a) EXPANSION OF THE LOUIS STOKES EDUCATIONAL SCHOLARSHIP PROGRAM TO GRADUATE STUDENTS.—Section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in subsection (a)—

(A) by inserting ''and graduate'' after ''undergraduate''; and

(B) by striking ''the baccalaureate'' and inserting ''a baccalaureate or graduate'';

(2) in subsection (b), by inserting ''or graduate'' after ''undergraduate'';

(3) in subsection (e)(2), by inserting ''and graduate'' after ''undergraduate''; and

(4) by adding at the end ''Such program shall be known as the Louis Stokes Educational Scholarship Program.''.

(b) AUTHORITY FOR PARTICIPATION BY INDIVIDUALS WHO ARE NOT EMPLOYED BY THE FEDERAL GOVERNMENT.—

(1) IN GENERAL.—Subsection (b) of section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by subsection (a)(2), is further amended by striking ''civilian employees'' and inserting ''civilians who may or may not be employees''.

(2) REPLACEMENT OF THE TERM ''EMPLOYEE''.—Section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by subsection (a), is further amended—

(A) in subsection (c), by striking ''employees'' and inserting ''program participants'';

(B) in subsection (d)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), strike ''an employee of the Agency'' and insert ''a program participant'';

(II) in subparagraph (A), by striking ''employee'' and inserting ''program participant'';

(III) in subparagraph (C)—

(aa) by striking ''employee'' each place that term appears and inserting ''program participant''; and

(bb) by striking ''employee's'' each place that term appears and inserting ''program participant's''; and

(IV) in subparagraph (D)—

(aa) by striking ''employee'' each place that term appears and inserting ''program participant''; and

(bb) by striking ''employee's'' each place that term appears and inserting ''program participant's''; and

(ii) in paragraph (3)(C)—

(I) by striking ''employee'' both places that term appears and inserting ''program participant''; and

(II) by striking ''employee's'' and inserting ''program participant's''; and

(C) in subsection (e)(1), by striking ''employee'' and inserting ''program participant''.

(c) TERMINATION OF PROGRAM PARTICIPANTS.—Subsection (d)(1)(C) of section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by subsection (b)(2)(B)(i)(III), is further amended by striking ''terminated'' and all that follows and inserting ''terminated—

''(i) by the Agency due to misconduct by the program participant;

''(ii) by the program participant voluntarily; or

''(iii) by the Agency for the failure of the program participant to maintain such level of academic standing in the educational course of training as the Director of the National Security Agency shall have specified in the agreement of the program participant under this subsection; and''.

(d) AUTHORITY TO WITHHOLD DISCLOSURE OF AFFILIATION WITH NSA.—Subsection (e) of Section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking ''(1) When an employee'' and all that follows through ''(2) Agency efforts'' and inserting ''Agency efforts''.

(e) AUTHORITY OF ELEMENTS OF THE INTELLIGENCE COMMUNITY TO ESTABLISH A STOKES EDUCATIONAL SCHOLARSHIP PROGRAM.—Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), as amended by sections 303 and 304, is further amended by adding at the end the following new subsection:

''(w) EDUCATIONAL SCHOLARSHIP PROGRAM.—The head of a department or agency containing an element of the intelligence community may establish an undergraduate or graduate training program with respect to civilian employees and prospective civilian employees of such element similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.''.

**SEC. 313. INTELLIGENCE OFFICER EDUCATION PROGRAMS.**

(a) AUTHORITY.—The Director may carry out, or may authorize the head of an element of the intelligence community to carry out, programs in accordance with this section for the purposes described in subsection (c).

(b) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term ''Director'' means ''the Director of National Intelligence''.

(2) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(c) PURPOSES.—The purpose of a program carried out under this section shall be—

(1) to encourage the preparation, recruitment, and retention of civilian intelligence community personnel who posses language, analytic, scientific, technical, or other skills necessary to meet the needs of the intelligence community, as identified by the Director; and

(2) to enhance recruitment and retention of an ethnically and culturally diverse workforce for the intelligence community with capabilities critical to the national security interests of the United States.

(d) AUTHORIZED PROGRAMS.—The programs authorized under this section are as follows:

(1) GRANTS TO INDIVIDUALS.—A program carried out in accordance with subsection (e) to provide financial aid to an individual to pursue a program at an institution of higher education in language, analysis, science, technical fields, or other skills necessary to meet the needs of the intelligence community, as identified by the Director.

(2) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—A program carried out in accordance with subsection (f) to provide a grant to an institution of higher education to develop a program of study in an area of study referred to paragraph (1).

(e) GRANTS TO INDIVIDUALS.—

(1) IN GENERAL.—The Director, or the head of an element of the intelligence community authorized by the Director under subsection (a), may award a grant to an individual who is pursuing an associate, baccalaureate, advanced degree, or certification in an area of study referred to in subsection (c)(1) at an institution of higher education.

(2) USE OR FUNDS.—A grant awarded to an individual under this section to enroll in a program at an institution of higher education may be used—

(A) to pay the tuition, fees, and other costs of such program;

(B) to pay the living expenses of the individual during the time the individual is enrolled in such program; or

(C) to support internship activities of the individual within the intelligence community during the academic year or periods between academic years in which the individual is enrolled in such program.

(3) ADMINISTRATION OF GRANTS.—A grant of financial aid to an individual under this section shall be administered through—

(A) the Pat Roberts Intelligence Scholars Program carried out under section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (50 U.S.C. 441g note); or

(B) the Louis Stokes Educational Scholarship Program carried out under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

(4) SELECTION.—In selecting an individual to receive a grant under this section to enroll in a program at an institution of higher education, the Director or head of an element of the intelligence community, as appropriate, shall consider whether such institution has been awarded a grant under this section.

(5) AUTHORITY FOR SCREENING.—The Director is authorized to screen and qualify each individual selected to receive a grant under this section for the appropriate security clearance without regard to the date that the employment relationship between the individual and an element of the intelligence community is formed, or whether it is ever formed.

(f) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—

(1) IN GENERAL.—The Director may award a grant to an institution of higher education to support the establishment, continued development, improvement, or administration of a program of study referred to in subsection (c)(1) at such institution.

(2) USE OF FUNDS.—A grant awarded to an institution of higher education under this section may be used for the following:

(A) Curriculum or program development.

(B) Faculty development.

(C) Laboratory equipment or improvements.

(D) Faculty research in language, analysis, science, technical, or other fields that meet current or emerging needs of the intelligence community as identified by the Director of National Intelligence.

(3) REPORTS.—An institution of higher education awarded a grant under this section shall submit to the Director regular reports regarding the use of such grant, including—

(A) a description of the benefits to students who participate in the course of study funded by such grant;

(B) a description of the results and accomplishments related to such course of study; and

(C) any other information that the Director may require.

(g) APPLICATION.—An individual or an institution of higher education seeking a grant under this section shall submit an application to the Director describing the proposed use of the grant at such time and in such manner as the Director may require.

(h) REGULATIONS.—The Director shall prescribe such regulations as are necessary to carry out this section.

(i) REPEAL OF PRIOR PROGRAMS.—

(1) IN GENERAL.—The following provisions are repealed:

(A) Section 319 of Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 50 U.S.C. 403 note).

(B) Section 1003 of the National Security Act of 1947 (50 U.S.C. 441g–2).

(C) Section 922 of Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 50 U.S.C. 402 note).

(2) EFFECT ON PRIOR AGREEMENTS.—An agreement, contract, or employment relationship that was in effect pursuant to a provision repealed by subparagraph (A), (B), or (C) of paragraph (1) prior to the date of the enactment of this Act shall remain in effect unless all parties mutually agree to amend, modify, or abrogate such agreement, contract, or relationship.

(3) TABLE OF CONTENTS AMENDMENTS.—

(A) INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004.—The Intelligence Authorization Act for Fiscal Year 2004 is amended in the table of contents in section 1(b), by striking the item relating to section 319.

(B) RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005.—The Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1811) is amended—

(i) in the table of contents in section 2(b), by striking the item relating to section 922; and

(ii) in title IV in the table of contents preceding subtitle A, by striking the item relating to section 922.

(j) EFFECT OF OTHER LAW.—The Director shall administer the Intelligence Officer Training Program pursuant to the provisions of chapter 63 of title 31, United States Code and chapter 75 of such title, except that the Comptroller General of the United States shall have no authority, duty, or responsibility in matters related to this program.

**SEC. 314. REVIEW AND REPORT ON EDUCATION PROGRAMS.**

(a) REVIEW.—

(1) REQUIREMENT FOR REVIEW.—The Director of National Intelligence shall review the programs described in paragraph (2) to determine if such programs—

(A) meet the needs of the intelligence community to prepare, recruit, and retain a skilled and diverse workforce;

(B) should be combined or otherwise integrated; and

(C) constitute all the education programs carried out by the Director of National Intelligence or the head of an element of the intelligence community and, if not, whether other such educational programs could be combined or otherwise integrated with the programs described in paragraph (2).

(2) PROGRAMS DESCRIBED.—The programs described in this paragraph are the following:

(A) The Pat Roberts Intelligence Scholars Program carried out under section 318 of the Intelligence Authorization Act for Fiscal Year 2004 (50 U.S.C. 441g note), as amended by section 311.

(B) The Louis Stokes Educational Scholarship Program carried out section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note), as amended by section 312.

(C) The education grant programs carried out under section 313.

(D) Any other program that provides for education or training of personnel of an element of the intelligence community.

(b) REPORT.—Not later than February 1, 2010, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the results of the review required by subsection (a).

**Subtitle C—Acquisition Matters**

**SEC. 321. VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS.**

(a) VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 305 of this Act, is further amended by inserting after section 506B, as added by section 305(a), the following new section:

''VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS

''SEC. 506C. (a) INITIAL VULNERABILITY ASSESSMENTS.—

''(1) REQUIREMENT FOR INITIAL VULNERABILITY ASSESSMENTS.—The Director of National Intelligence shall conduct an initial vulnerability assessment for any major system and its significant items of supply that is proposed for inclusion in the National Intelligence Program prior to completion of Milestone B or an equivalent acquisition decision. The initial vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach to—

''(A) identify vulnerabilities;

''(B) define exploitation potential;

''(C) examine the system's potential effectiveness;

''(D) determine overall vulnerability; and

''(E) make recommendations for risk reduction.

''(2) LIMITATION ON OBLIGATION OF FUNDS.—For any major system for which an initial vulnerability assessment is required under paragraph (1) on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010, such assessment shall be submitted to the congressional intelligence committees within 180 days of such date of enactment. If such assessment is not submitted to the congressional intelligence committees within 180 days of such date of enactment, funds appropriated for the acquisition of the major system may not be obligated for a major contract related to the major system. Such prohibition on the obligation of funds for the acquisition of the major system shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the initial vulnerability assessment.

''(b) SUBSEQUENT VULNERABILITY ASSESSMENTS.—(1) The Director of National Intelligence shall, periodically throughout the life span of a major system or if the Director determines that a change in circumstances warrants the issuance of a subsequent vulnerability assessment, conduct a subsequent vulnerability assessment of each major system and its significant items of supply within the National Intelligence Program.

''(2) Upon the request of a congressional intelligence committee, the Director of National Intelligence may conduct a subsequent vulnerability assessment of a particular major system and its significant items of supply within the National Intelligence Program.

''(3) Any subsequent vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach and, if applicable, a testing-based approach, to monitor the exploitation potential of such system and reexamine the factors described in subparagraphs (A) through (E) of subsection (a)(1).

''(c) MAJOR SYSTEM MANAGEMENT.—The Director of National Intelligence shall give due consideration to the vulnerability assessments prepared for a given major system when developing and determining the National Intelligence Program budget.

''(d) CONGRESSIONAL OVERSIGHT.—(1) The Director of National Intelligence shall provide to the congressional intelligence committees a copy of each vulnerability assessment conducted under subsection (a) or (b) not later than 10 days after the date of the completion of such assessment.

''(2) The Director of National Intelligence shall provide the congressional intelligence committees with a proposed schedule for subsequent vulnerability assessments of a major system under subsection (b) when providing such committees with the initial vulnerability assessment under subsection (a) of such system as required by paragraph (1).

''(e) DEFINITIONS.—In this section:

''(1) The term 'items of supply'—

''(A) means any individual part, component, subassembly, assembly, or subsystem integral to a major system, and other property which may be replaced during the service life of the major system, including spare parts and replenishment parts; and

''(B) does not include packaging or labeling associated with shipment or identification of items.

''(2) The term 'major system' has the meaning given that term in section 506A(e).

''(3) The term 'Milestone B' means a decision to enter into system development and demonstration pursuant to guidance prescribed by the Director of National Intelligence.

''(4) The term 'vulnerability assessment' means the process of identifying and quantifying vulnerabilities in a major system and its significant items of supply.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 305 of this Act, is further amended by inserting after the item relating to section 506B, as added by section 305(b), the following:

''Sec. 506C. Vulnerability assessments of major systems.''.

(b) DEFINITION OF MAJOR SYSTEM.—Paragraph (3) of section 506A(e) of the National Security Act of 1947 (50 U.S.C. 415a–1(e)) is amended to read as follows:

''(3) The term 'major system' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).''.

**SEC. 322. INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.**

(a) INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 305 and 321 of this Act, is further amended by inserting after section 506C, as added by section 321(a), the following new section:

''INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION

''SEC. 506D. (a) LIMITATION ON OBLIGATION OF FUNDS.—(1) After February 1, 2010, no funds appropriated to any element of the intelligence community may be obligated for an intelligence community business system transformation that will have a total cost in excess of $1,000,000 unless—

''(A) the approval authority designated by the Director of National Intelligence under subsection (c)(2) makes the certification described in paragraph (2) with respect to the intelligence community business system transformation; and

''(B) the certification is approved by the appropriate authorities within the intelligence community business system transformation governance structure identified in subsection (f).

''(2) The certification described in this paragraph for an intelligence community business system transformation is a certification, made by the approval authority designated by the Director under subsection (c)(2) that the intelligence community business system transformation—

''(A) complies with the enterprise architecture under subsection (b) and other Director of National Intelligence policy and standards; or

''(B) is necessary—

''(i) to achieve a critical national security capability or address a critical requirement in an area such as safety or security; or

''(ii) to prevent a significant adverse effect on a project that is needed to achieve an essential capability, taking into consideration the alternative solutions for preventing such adverse effect.

''(b) ENTERPRISE ARCHITECTURE FOR INTELLIGENCE COMMUNITY BUSINESS SYSTEMS.—(1) The Director of National Intelligence shall, acting through the intelligence community business system transformation governance structure identified in subsection (f), develop and implement an enterprise architecture to cover all intelligence community business systems, and the functions and activities supported by such business systems. The enterprise architecture shall be sufficiently defined to effectively guide, constrain, and permit implementation of interoperable intelligence community business system solutions, consistent with applicable policies and procedures established by the Director of the Office of Management and Budget.

''(2) The enterprise architecture under paragraph (1) shall include the following—

''(A) An information infrastructure that, at a minimum, will enable the intelligence community to—

''(i) comply with all Federal accounting, financial management, and reporting requirements;

''(ii) routinely produce timely, accurate, and reliable financial information for management purposes;

''(iii) integrate budget, accounting, and program information and systems; and

''(iv) provide for the measurement of performance, including the ability to produce timely, relevant, and reliable cost information.

''(B) Policies, procedures, data standards, and system interface requirements that apply uniformly throughout the intelligence community.

''(c) RESPONSIBILITIES FOR INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.—(1) The Director of National Intelligence shall be responsible for the entire life cycle of an intelligence community business system transformation, to include review, approval, and oversight of the planning, design, acquisition, deployment, operation, and maintenance of the business system transformation.

''(2) The Director shall designate one or more appropriate officials of the intelligence community to be responsible for making certifications with respect to intelligence community business system transformation under subsection (a)(2).

''(d) INTELLIGENCE COMMUNITY BUSINESS SYSTEM INVESTMENT REVIEW.—(1) The approval authority designated under subsection (c)(2) shall establish and implement, not later than February 1, 2010, an investment review process for the intelligence community business systems for which the approval authority is responsible.

''(2) The investment review process under paragraph (1) shall—

''(A) meet the requirements of section 11312 of title 40, United States Code; and

''(B) specifically set forth the responsibilities of the approval authority under such review process.

''(3) The investment review process under paragraph (1) shall include the following elements:

''(A) Review and approval by an investment review board (consisting of appropriate representatives of the intelligence community) of each intelligence community business system as an investment before the obligation of funds for such system.

''(B) Periodic review, but not less often than annually, of every intelligence community business system investment.

''(C) Thresholds for levels of review to ensure appropriate review of intelligence community business system investments depending on the scope, complexity, and cost of the system involved.

''(D) Procedures for making certifications in accordance with the requirements of subsection (a)(2).

''(e) BUDGET INFORMATION.—For each fiscal year after fiscal year 2011, the Director of National Intelligence shall include in the materials the Director submits to Congress in support of the budget for such fiscal year that is submitted to Congress under section 1105 of title 31, United States Code, the following information:

''(1) An identification of each intelligence community business system for which funding is proposed in such budget.

''(2) An identification of all funds, by appropriation, proposed in such budget for each such system, including—

''(A) funds for current services to operate and maintain such system;

''(B) funds for business systems modernization identified for each specific appropriation; and

''(C) funds for associated business process improvement or reengineering efforts.

''(3) For each such system, identification of approval authority designated for such system under subsection (c)(2).

''(4) The certification, if any, made under subsection (a)(2) with respect to each such system.

''(f) INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION GOVERNANCE BOARD.—

''(1) The Director of National Intelligence shall establish a board within the intelligence community business system transformation governance structure (in this subsection referred to as the 'Board').

''(2) The Board shall—

''(A) recommend to the Director policies and procedures necessary to effectively integrate all business activities and any transformation, reform, reorganization, or process improvement initiatives under taken within the intelligence community;

''(B) review and approve any major update of—

''(i) the enterprise architecture developed under subsection (b); and

''(ii) any plans for an intelligence community business systems modernization;

''(C) manage cross-domain integration consistent with such enterprise architecture;

''(D) be responsible for coordinating initiatives for intelligence community business system transformation to maximize benefits and minimize costs for the intelligence community, and periodically report to the Director on the status of efforts to carry out an intelligence community business system transformation;

''(E) ensure that funds are obligated for intelligence community business system transformation in a manner consistent with subsection (a); and

''(F) carry out such other duties as the Director shall specify.

''(g) RELATION TO ANNUAL REGISTRATION REQUIREMENTS.—Nothing in this section shall be construed to alter the requirements of section 8083 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 989), with regard to information technology systems (as defined in subsection (d) of such section).

''(h) RELATIONSHIP TO DEFENSE BUSINESS ENTERPRISE ARCHITECTURE.—Nothing in this section, or the amendments made by this section, shall be construed to exempt funds authorized to be appropriated to the Department of Defense from the requirements of section 2222 of title 10, United States Code, to the extent that such requirements are otherwise applicable.

''(i) RELATION TO CLINGER-COHEN ACT.—(1) Executive agency responsibilities in chapter 113 of title 40, United States Code, for any intelligence community business system transformation shall be exercised jointly by—

''(A) the Director of National Intelligence and the Chief Information Officer of the Intelligence Community; and

''(B) the head of the executive agency that contains the element of the intelligence community involved and the chief information officer of that executive agency.

''(2) The Director of National Intelligence and the head of the executive agency shall enter a Memorandum of Understanding to carry out the requirements of this section in a manner that best meets the needs of the intelligence community and the executive agency.

''(j) REPORTS.—Not later than March 15 of each of the years 2011 through 2015, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the compliance of the intelligence community with the requirements of this section. Each such report shall—

''(1) describe actions taken and proposed for meeting the requirements of subsection (a), including—

''(A) specific milestones and actual performance against specified performance measures, and any revision of such milestones and performance measures; and

''(B) specific actions on the intelligence community business system transformations submitted for certification under such subsection; and

''(2) identify the number of intelligence community business system transformations that received a certification described in subsection (a)(2)(B); and

''(3) describe specific improvements in business operations and cost savings resulting from successful intelligence community business systems transformation efforts.

''(k) DEFINITIONS.—In this section:

''(1) ENTERPRISE ARCHITECTURE.—The term 'enterprise architecture' has the meaning given that term in section 3601(4) of title 44, United States Code.

''(2) INFORMATION SYSTEM; INFORMATION TECHNOLOGY.—The terms 'information system' and 'information technology' have the meanings given those terms in section 11101 of title 40, United States Code.

''(3) INTELLIGENCE COMMUNITY BUSINESS SYSTEM.—The term 'intelligence community business system' means an information system, including national security systems, that are operated by, for, or on behalf of the intelligence community or elements of the intelligence community as defined by law and Executive Order, including financial systems, mixed systems, financial data feeder systems, and the business infrastructure capabilities shared by the systems of the business enterprise architecture, including people, process, and technology, that build upon the core infrastructure used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management.

''(4) INTELLIGENCE COMMUNITY BUSINESS SYSTEM TRANSFORMATION.—The term 'intelligence community business system transformation' means—

''(A) the acquisition or development of a new intelligence community business system; or

''(B) any significant modification or enhancement of an existing intelligence community business system (other than necessary to maintain current services).

''(5) NATIONAL SECURITY SYSTEM.—The term 'national security system' has the meaning given that term in section 3542 of title 44, United States Code.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 305 and 321 of this Act, is further amended by inserting after the item relating to section 506C, as added by section 321(a)(2), the following new item:

''Sec. 506D. Intelligence community business systems transformation.''.

(b) IMPLEMENTATION.—

(1) CERTAIN DUTIES.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall—

(A) complete the delegation of responsibility for the review, approval, and oversight of intelligence community business systems required by subsection (c) of section 506D of the National Security Act of 1947 (as added by subsection (a)); and

(B) designate a chairman and personnel to serve on the appropriate intelligence community business system transformation governance board established under subsection (f) of such section 506D (as so added).

(2) ENTERPRISE ARCHITECTURE.—

(A) SCHEDULE FOR DEVELOPMENT.—The Director shall develop the enterprise architecture required by subsection (b) of such section 506D (as so added) to include the initial Business Enterprise Architecture for business transformation by December 31, 2009.

(B) REQUIREMENT FOR IMPLEMENTATION PLAN.—In developing such an enterprise architecture, the Director shall develop an implementation plan for such enterprise architecture that includes the following:

(i) An acquisition strategy for new systems that are expected to be needed to complete such enterprise architecture, including specific time-phased milestones, performance metrics, and a statement of the financial and nonfinancial resource needs.

(ii) An identification of the intelligence community business systems in operation or planned as of September 30, 2009, that will not be a part of such enterprise architecture, together with the schedule for the phased termination of the utilization of any such systems.

(iii) An identification of the intelligence community business systems in operation or planned as of September 30, 2009, that will be a part of such enterprise architecture, together with a strategy for modifying such systems to ensure that such systems comply with such enterprise architecture.

(C) SUBMISSION OF ACQUISITION STRATEGY.—Based on the results of an enterprise process management review and the availability of funds, the Director shall submit the acquisition strategy described in subparagraph (B)(i) to the congressional intelligence committees not later than December 31, 2009.

**SEC. 323. REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS.**

(a) REPORTS.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 305, 321, and 322 of this Act, is further amended by inserting after

section 506D, as added by section 322(a)(1), the following new section:

''REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS

''SEC. 506E. (a) ANNUAL REPORTS REQUIRED.—(1) The Director of National Intelligence shall submit to the congressional intelligence committees each year, at the same time the budget of the President for the fiscal year beginning in such year is submitted to Congress pursuant to section 1105 of title 31, United States Code, a separate report on each acquisition of a major system by an element of the intelligence community.

''(2) Each report under this section shall be known as a 'Report on the Acquisition of Major Systems'.

''(b) ELEMENTS.—Each report under this section shall include, for the acquisition of a major system, information on the following:

''(1) The current total acquisition cost for such system, and the history of such cost from the date the system was first included in a report under this section to the end of the fiscal year immediately preceding the submission of the report under this section.

''(2) The current development schedule for the system, including an estimate of annual development costs until development is completed.

''(3) The planned procurement schedule for the system, including the best estimate of the Director of National Intelligence of the annual costs and units to be procured until procurement is completed.

''(4) A full life-cycle cost analysis for such system.

''(5) The result of any significant test and evaluation of such major system as of the date of the submission of such report, or, if a significant test and evaluation has not been conducted, a statement of the reasons therefor and the results of any other test and evaluation that has been conducted of such system.

''(6) The reasons for any change in acquisition cost, or schedule, for such system from the previous report under this section, if applicable.

''(7) The major contracts or subcontracts related to the major system.

''(8) If there is any cost or schedule variance under a contract referred to in paragraph (7) since the previous report under this section, the reasons for such cost or schedule variance.

''(c) DETERMINATION OF INCREASE IN COSTS.—Any determination of a percentage increase in the acquisition costs of a major system for which a report is filed under this section shall be stated in terms of constant dollars from the first fiscal year in which funds are appropriated for such contract.

''(d) SUBMISSION TO THE CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

''(e) DEFINITIONS.—In this section:

''(1) The term 'acquisition cost', with respect to a major system, means the amount equal to the total cost for development and procurement of, and system-specific construction for, such system.

''(2) The term 'full life-cycle cost', with respect to the acquisition of a major system, means all costs of development, procurement, construction, deployment, and operation and support for such program, without regard to funding source or management control, including costs of development and procurement required to support or utilize such system.

''(3) The term 'major contract,' with respect to a major system acquisition, means each of the 6 largest prime, associate, or government-furnished equipment contracts under the program that is in excess of $40,000,000 and that is not a firm, fixed price contract.

''(4) The term 'major system' has the meaning given that term in section 506A(e).

''(5) The term 'significant test and evaluation' means the functional or environmental testing of a major system or of the subsystems that combine to create a major system.''.

(2) APPLICABILITY DATE.—The first report required to be submitted under section 506E(a) of the National Security Act of 1947, as added by paragraph (1), shall be submitted with the budget for fiscal year 2011 submitted by the President under section 1105 of title 31, United States Code.

(3) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 305, 321, and 322 of this Act, is further amended by inserting after the item relating to section 506D, as added by section 322(a)(2), the following new item:

''Sec. 506E. Reports on the acquisition of major systems.''.

(b) MAJOR DEFENSE ACQUISITION PROGRAMS.—Nothing in this section, section 324, or an amendment made by this section or section 324, shall be construed to exempt an acquisition program of the Department of Defense from the requirements of chapter 144 of title 10, United States Code or Department of Defense Directive 5000, to the extent that such requirements are otherwise applicable.

**SEC. 324. EXCESSIVE COST GROWTH OF MAJOR SYSTEMS.**

(a) NOTIFICATION.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 305, 321, 322, and 323 of this Act, is further amended by inserting after section 506E, as added by section 323(a), the following new section:

''EXCESSIVE COST GROWTH OF MAJOR SYSTEMS

''SEC. 506F. (a) COST INCREASES OF AT LEAST 25 PERCENT.—(1)(A) On a continuing basis, and separate from the submission of any report on a major system required by section 506E of this Act, the program manager shall determine if the acquisition cost of such major system has increased by at least 25 percent as compared to the baseline cost of such major system.

''(B) Not later than 10 days after the date that a program manager determines that an increase described in subparagraph (A) has occurred, the program manager shall submit to the Director of National Intelligence notification of such increase.

''(2)(A) If, after receiving a notification described in paragraph (1)(B), the Director of National Intelligence determines that the acquisition cost of a major system has increased by at least 25 percent, the Director shall submit to the congressional intelligence committees a written notification of such determination as described in subparagraph (B), a description of the amount of the increase in the acquisition cost of such major system, and a certification as described in subparagraph (C).

''(B) The notification required by subparagraph (A) shall include—

''(i) an updated cost estimate;

''(ii) the date on which the determination covered by such notification was made;

''(iii) contract performance assessment information with respect to each significant contract or sub-contract related to such major system, including the name of the contractor, the phase of the contract at the time of the report, the percentage of work under the contract that has been completed, any change in contract cost, the percentage by which the contract is currently ahead or behind schedule, and a summary explanation of significant occurrences, such as cost and schedule variances, and the effect of such occurrences on future costs and schedules;

''(iv) the prior estimate of the full life-cycle cost for such major system, expressed in constant dollars and in current year dollars;

''(v) the current estimated full life-cycle cost of such major system, expressed in constant dollars and current year dollars;

''(vi) a statement of the reasons for any increases in the full life-cycle cost of such major system;

''(vii) the current change and the total change, in dollars and expressed as a percentage, in the full life-cycle cost applicable to such major system, stated both in constant dollars and current year dollars;

''(viii) the completion status of such major system expressed as the percentage—

''(I) of the total number of years for which funds have been appropriated for such major system compared to the number of years for which it is planned that such funds will be appropriated; and

''(II) of the amount of funds that have been appropriated for such major system compared to the total amount of such funds which it is planned will be appropriated;

''(ix) the action taken and proposed to be taken to control future cost growth of such major system; and

''(x) any changes made in the performance or schedule of such major system and the extent to which such changes have contributed to the increase in full life-cycle costs of such major system.

''(C) The certification described in this subparagraph is a written certification made by the Director and submitted to the congressional intelligence committees that—

''(i) the acquisition of such major system is essential to the national security;

''(ii) there are no alternatives to such major system that will provide equal or greater intelligence capability at equal or lesser cost to completion;

''(iii) the new estimates of the full life-cycle cost for such major system are reasonable; and

''(iv) the management structure for the acquisition of such major system is adequate to manage and control full life-cycle cost of such major system.

''(b) COST INCREASES OF AT LEAST 50 PERCENT.—(1)(A) On a continuing basis, and separate from the submission of any report on a major system required by section 506E of this Act, the program manager shall determine if the acquisition cost of such major system has increased by at least 50 percent as compared to the baseline cost of such major system.

''(B) Not later than 10 days after the date that a program manager determines that an increase described in subparagraph (A) has occurred, the program manager shall submit to the Director of National Intelligence notification of such increase.

''(2) If, after receiving a notification described in paragraph (1)(B), the Director of National Intelligence determines that the acquisition cost of a major system has increased by at least 50 percent as compared to the baseline cost of such major system, the Director shall submit to the congressional intelligence committees a written certification stating that—

''(A) the acquisition of such major system is essential to the national security;

''(B) there are no alternatives to such major system that will provide equal or

greater intelligence capability at equal or lesser cost to completion;

''(C) the new estimates of the full life-cycle cost for such major system are reasonable; and

''(D) the management structure for the acquisition of such major system is adequate to manage and control the full life-cycle cost of such major system.

''(3) In addition to the certification required by paragraph (2), the Director of National Intelligence shall submit to the congressional intelligence committees an updated notification, with current accompanying information, as required by subsection (a)(2).

''(c) PROHIBITION ON OBLIGATION OF FUNDS.—(1) If a written certification required under subsection (a)(2)(A) is not submitted to the congressional intelligence committees within 90 days of the notification made under subsection (a)(1)(B), funds appropriated for the acquisition of a major system may not be obligated for a major contract under the program. Such prohibition on the obligation of funds shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the notification required under subsection (a)(2).

''(2) If a written certification required under subsection (b)(2) is not submitted to the congressional intelligence committees within 90 days of the notification made under subsection (b)(1)(B), funds appropriated for the acquisition of a major system may not be obligated for a major contract under the program. Such prohibition on the obligation of funds for the acquisition of a major system shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the notification required under subsection (b)(3).

''(d) INITIAL CERTIFICATIONS.—Notwithstanding subsection (c), for any major system for which a written certification is required under either subsection (a)(2) or (b)(2) on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010, such written certification shall be submitted to the congressional intelligence committees within 180 days of such date of enactment. If such written certification is not submitted to the congressional intelligence committees within 180 days of such date of enactment, funds appropriated for the acquisition of a major system may not be obligated for a major contract under the program. Such prohibition on the obligation of funds for the acquisition of a major system shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the notification required under subsection (a)(2) or (b)(3).

''(e) SUBMISSION TO THE CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that a submission required to be made to the congressional intelligence committees under this section addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence shall submit that portion of the submission, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

''(f) DEFINITIONS.—In this section:

''(1) The term 'acquisition cost' has the meaning given that term in section 506E(d).

''(2) The term 'baseline cost', with respect to a major system, means the projected acquisition cost of such system that is approved by the Director of National Intelligence at Milestone B or an equivalent acquisition decision for the development, procurement, and construction of such system. The baseline cost may be in the form of an independent cost estimate.

''(3) The term 'cost estimate'—

''(A) means an assessment and quantification of all costs and risks associated with the acquisition of a major system based upon reasonably available information at the time a written certification is required under either subsection (a)(2) or (b)(2); and

''(B) does not mean an 'independent cost estimate'.

''(4) The term 'full life-cycle cost' has the meaning given that term in section 506E(d).

''(5) The term 'independent cost estimate' has the meaning given that term in section 506A(e).

''(6) The term 'major system' has the meaning given that term in section 506A(e).

''(7) The term 'Milestone B' means a decision to enter into system development and demonstration pursuant to guidance prescribed by the Director of National Intelligence.

''(8) The term 'program manager', with respect to a major system, means—

''(A) the head of the element of the intelligence community which is responsible for the budget, cost, schedule, and performance of the major system; or

''(B) in the case of a major system within the Office of the Director of National Intelligence, the deputy who is responsible for the budget, cost, schedule, and performance of the major system.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 305, 321, 322, and 323 of this Act, is further amended by inserting after the items relating to section 506E, as added by section 323(a)(3), the following new item:

''Sec. 506F. Excessive cost growth of major systems.''.

**SEC. 325. FUTURE BUDGET PROJECTIONS.**

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 305, 321, 322, 323, and 324 of this Act, is further amended by inserting after section 506F, as added by section 324(a), the following new section:

''FUTURE BUDGET PROJECTIONS

''SEC. 506G. (a) FUTURE YEAR INTELLIGENCE PLANS.—(1) The Director of National Intelligence, with the concurrence of the Office of Management and Budget, shall provide to the congressional intelligence committees a Future Year Intelligence Plan, as described in paragraph (2), for—

''(A) each expenditure center in the National Intelligence Program; and

''(B) each major system in the National Intelligence Program.

''(2)(A) A Future Year Intelligence Plan submitted under this subsection shall include the year-by-year proposed funding for each center or system referred to in subparagraph (A) or (B) of paragraph (1), for the budget year for which the Plan is submitted and not less than the 4 subsequent budget years.

''(B) A Future Year Intelligence Plan submitted under subparagraph (B) of paragraph (1) for a major system shall include—

''(i) the estimated total life-cycle cost of such major system; and

''(ii) any major acquisition or programmatic milestones for such major system.

''(b) LONG-TERM BUDGET PROJECTIONS.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Long-term Budget Projection for each element of the National Intelligence Program acquiring a major system that includes the budget for such element for the 5-year period following the last budget year for which proposed funding was submitted under subsection (a)(2)(A).

''(2) A Long-term Budget Projection submitted under paragraph (1) shall include projections for the appropriate element of the intelligence community for—

''(A) pay and benefits of officers and employees of such element;

''(B) other operating and support costs and minor acquisitions of such element;

''(C) research and technology required by such element;

''(D) current and planned major system acquisitions for such element; and

''(E) any unplanned but necessary next-generation major system acquisitions for such element.

''(c) SUBMISSION TO CONGRESS.—Each Future Year Intelligence Plan or Long-term Budget Projection required under subsection (a) or (b) shall be submitted to Congress along with the budget for a fiscal year submitted to Congress by the President pursuant to section 1105 of title 31, United States Code.

''(d) CONTENT OF LONG-TERM BUDGET PROJECTIONS.—(1) Each Long-term Budget Projection submitted under subsection (b) shall include—

''(A) a budget projection based on constrained budgets, effective cost and schedule execution of current or planned major system acquisitions, and modest or no cost-growth for undefined, next-generation systems; and

''(B) a budget projection based on constrained budgets, modest cost increases in executing current and planned programs, and more costly next-generation systems.

''(2) Each budget projection required by paragraph (1) shall include a description of whether, and to what extent, the total projection for each year exceeds the level that would result from applying the most recent Office of Management and Budget inflation estimate to the budget of that element of the intelligence community.

''(e) NEW MAJOR SYSTEM AFFORDABILITY REPORT.—(1) Beginning on February 1, 2010, not later than 30 days prior to the date that an element of the intelligence community may proceed to Milestone A, Milestone B, or an analogous stage of system development, in the acquisition of a major system in the National Intelligence Program, the Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide a report on such major system to the congressional intelligence committees.

''(2)(A) A report submitted under paragraph (1) shall include an assessment of whether, and to what extent, such acquisition, if developed, procured, and operated, is projected to cause an increase in the most recent Future Year Intelligence Plan and Long-term Budget Projection for that element of the intelligence community.

''(B) If an increase is projected under subparagraph (A), the report required by this subsection shall include a specific finding, and the reasons therefor, by the Director of National Intelligence and the Director of the Office of Management and Budget that such increase is necessary for national security.

''(f) DEFINITIONS.—In this section:

''(1) The term 'major system' has the meaning given that term in section 506A(e).

''(2) The term 'Milestone A' means a decision to enter into concept refinement and technology maturity demonstration pursuant to guidance issued by the Director of National Intelligence.

''(3) The term 'Milestone B' means a decision to enter into system development, integration, and demonstration pursuant to

guidance prescribed by the Director of National Intelligence.''.

(b) APPLICABILITY DATE.—The first Future Year Intelligence Plan or Long-term Budget Projection required to be submitted under subsection (a) or (b) of section 506G of the National Security Act of 1947, as added by subsection (a), shall be submitted with the budget for fiscal year 2011 submitted by the President under section 1105 of title 31, United States Code.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 305, 321, 322, 323, and 324 of this Act, is further amended by inserting after the items relating to section 506F, as added by section 324(b), the following new item:

''Sec. 506G. Future budget projections.''.

**SEC. 326. NATIONAL INTELLIGENCE PROGRAM FUNDED ACQUISITIONS.**

Subsection (n) of section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended by adding at the end the following:

''(4)(A) In addition to the authority referred to in paragraph (1), the Director of National Intelligence may authorize the head of an element of the intelligence community to exercise an acquisition authority referred to in section 3 or 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c and 403j(a)) for an acquisition by such element that is more than 50 percent funded by the National Intelligence Program.

''(B) The head of an element of the intelligence community may not exercise an authority referred to in subparagraph (A) until—

''(i) the head of such element (without delegation) submits to the Director of National Intelligence a written request that includes—

''(I) a description of such authority requested to be exercised;

''(II) an explanation of the need for such authority, including an explanation of the reasons that other authorities are insufficient; and

''(III) a certification that the mission of such element would be—

''(aa) impaired if such authority is not exercised; or

''(bb) significantly and measurably enhanced if such authority is exercised; and

''(ii) the Director of National Intelligence or the Principal Deputy Director of National Intelligence or a Deputy Director of National Intelligence designated by the Director or the Principal Director issues a written authorization that includes—

''(I) a description of the authority referred to in subparagraph (A) that is authorized to be exercised; and

''(II) a justification to support the exercise of such authority.

''(C) A request and authorization to exercise an authority referred to in subparagraph (A) may be made with respect to individual acquisitions or with respect to a specific class of acquisitions described in the request and authorization referred to in subparagraph (B).

''(D)(i) A request from a head of an element of the intelligence community located within one of the departments described in clause (ii) to exercise an authority referred to in subparagraph (A) shall be transmitted to the Director of National Intelligence in accordance with any procedures established by the head of such department.

''(ii) The departments described in this clause are the Department of Defense, the Department of Energy, the Department of Homeland Security, the Department of Justice, the Department of State, and the Department of the Treasury.

''(E)(i) The head of an element of the intelligence community may not be authorized to utilize an authority referred to in subparagraph (A) for a class of acquisitions for a period of more than 3 years, except that the Director of National Intelligence may authorize the use of such an authority for not more than 6 years.

''(ii) Each such authorizations may be extended for successive 3- or 6-year periods, in accordance with requirements of subparagraph (B).

''(F) The Director of National Intelligence shall submit—

''(i) to the congressional intelligence committees a notification of an authorization to exercise an authority referred to in subparagraph (A) or an extension of such authorization that includes the written authorization referred to in subparagraph (B)(ii); and

''(ii) to the Director of the Office of Management and Budget a notification of an authorization to exercise an authority referred to in subparagraph (A) for an acquisition or class of acquisitions that will exceed $50,000,000 annually.

''(G) Requests and authorizations to exercise an authority referred to in subparagraph (A) shall remain available within the Office of the Director of National Intelligence for a period of at least 6 years following the date of such request or authorization.

''(H) Nothing in this paragraph may be construed to alter or otherwise limit the authority of the Central Intelligence Agency to independently exercise an authority under section 3 or 8(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c and 403j(a)).''.

**Subtitle D—Congressional Oversight, Plans, and Reports**

**SEC. 331. GENERAL CONGRESSIONAL OVERSIGHT.**

Section 501(a) of the National Security Act of 1947 (50 U.S.C. 413(a)) is amended by inserting at the end the following:

''(3) There shall be no exception to the requirements in this title to inform the congressional intelligence committees of all intelligence activities and covert actions.''.

**SEC. 332. IMPROVEMENT OF NOTIFICATION OF CONGRESS REGARDING INTELLIGENCE ACTIVITIES OF THE UNITED STATES.**

(a) NOTICE ON INFORMATION NOT DISCLOSED.—

(1) IN GENERAL.—Section 502 of the National Security Act of 1947 (50 U.S.C. 413a) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following:

''(b) NOTICE ON INFORMATION NOT DISCLOSED.—(1) If the Director of National Intelligence or the head of a department, agency, or other entity of the United States Government does not provide information required by subsection (a) in full or to all the members of the congressional intelligence committees and requests that such information not be so provided, the Director shall, in a timely fashion, notify such committees of the determination not to provide such information in full or to all members of such committees. Such notice shall—

''(A) be submitted in writing in a classified form;

''(B) include—

''(i) a statement of the reasons for such determination; and

''(ii) a description that provides the main features of the intelligence activities covered by such determination; and

''(C) contain no restriction on access to such notice by all members of the committee.

''(2) Nothing in this subsection shall be construed as authorizing less than full and current disclosure to all the members of the congressional intelligence committees of any information necessary to keep all such members fully and currently informed on all intelligence activities described in subsection (a).''.

(2) CONFORMING AMENDMENT.—Subsection (d) of such section, as redesignated by paragraph (1)(A) of this subsection, is amended by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''.

(b) REPORTS AND NOTICE ON COVERT ACTIONS.—

(1) FORM AND CONTENT OF CERTAIN REPORTS.—Subsection (b) of section 503 of such Act (50 U.S.C. 413b) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting ''(1)'' after ''(b)''; and

(C) by adding at the end the following:

''(2) Any information relating to a covert action that is submitted to the congressional intelligence committees for the purposes of paragraph (1) shall be in writing and shall contain the following:

''(A) A concise statement of any facts pertinent to such covert action.

''(B) An explanation of the significance of such covert action.''.

(2) NOTICE ON INFORMATION NOT DISCLOSED.—Subsection (c) of such section is amended by adding at the end the following:

''(5) If the Director of National Intelligence or the head of a department, agency, or other entity of the United States Government does not provide information required by subsection (b) in full or to all the members of the congressional intelligence committees, and requests that such information not be so provided, the Director shall, in a timely fashion, notify such committees of the determination not to provide such information in full or to all members of such committees. Such notice shall—

''(A) be submitted in writing in a classified form;

''(B) include—

''(i) a statement of the reasons for such determination; and

''(ii) a description that provides the main features of the covert action covered by such determination; and

''(C) contain no restriction on access to such notice by all members of the committee.''.

(3) MODIFICATION OF NATURE OF CHANGE OF COVERT ACTION TRIGGERING NOTICE REQUIREMENTS.—Subsection (d) of such section is amended by striking ''significant'' the first place that term appears.

**SEC. 333. REQUIREMENT TO PROVIDE LEGAL AUTHORITY FOR INTELLIGENCE ACTIVITIES.**

(a) GENERAL INTELLIGENCE ACTIVITIES.—Section 501(a) of the National Security Act of 1947 (50 U.S.C.413(a)), as amended by section 331, is further amended by adding at the end the following:

''(4) In carrying out paragraph (1), the President shall provide to the congressional intelligence committees the legal authority under which the intelligence activity is or was conducted.''.

(b) ACTIONS OTHER THAN COVERT ACTIONS.—Section 502(a)(2) of the National Security Act of 1947 (50 U.S.C. 413a(a)(2)) is amended by striking ''activities,'' and inserting ''activities (including the legal authority under which an intelligence activity is or was conducted),''.

(c) COVERT ACTIONS.—Paragraph (1)(B) of section 503(b) of the National Security Act of 1947 (50 U.S.C. 413b(b)), as redesignated by section 332 (b)(1), is amended by inserting ''(including the legal authority under which a covert action is or was conducted)'' after ''concerning covert actions''.

**SEC. 334. ADDITIONAL LIMITATION ON AVAILABILITY OF FUNDS FOR INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES.**

Section 504 of the National Security Act of 1947 (50 U.S.C. 414) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting ''the congressional intelligence committees have been fully and currently informed of such activity and if'' after ''only if'';

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(3) by inserting after subsection (a) the following:

''(b) In any case in which notice to the congressional intelligence committees of an intelligence or intelligence-related activity is covered by section 502(b), or in which notice to the congressional intelligence committees on a covert action is covered by section 503(c)(5), the congressional intelligence committees shall be treated as being fully and currently informed on such activity or covert action, as the case may be, for purposes of subsection (a) if the requirements of such section 502(b) or 503(c)(5), as applicable, have been met.''.

**SEC. 335. AUDITS OF INTELLIGENCE COMMUNITY BY GOVERNMENT ACCOUNTABILITY OFFICE.**

(a) IN GENERAL.—Chapter 35 of title 31, United States Code, is amended by inserting after section 3523 the following:

**''§ 3523A. Audits of intelligence community by Government Accountability Office**

''(a) In this section, the term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''(b) Congress finds that—

''(1) the authority of the Comptroller General to perform audits and evaluations of financial transactions, programs, and activities of elements of the intelligence community under sections 712, 717, 3523, and 3524, and to obtain access to records for purposes of such audits and evaluations under section 716, is reaffirmed for matters referred to in paragraph (2); and

''(2) such audits and evaluations may be requested by a congressional committee of jurisdiction (such as the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives), and may include matters relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, and information sharing.

''(c)(1) The Comptroller General may conduct an audit or evaluation involving intelligence sources and methods or covert actions only upon request of the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives.

''(2)(A) Whenever the Comptroller General conducts an audit or evaluation under paragraph (1), the Comptroller General shall provide the results of such audit or evaluation only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

''(B) The Comptroller General may only provide information obtained in the course of an audit or evaluation under paragraph (1) to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

''(3)(A) Notwithstanding any other provision of law, the Comptroller General may inspect records of any element of the intelligence community relating to intelligence sources and methods, or covert actions in order to conduct audits and evaluations under paragraph (1).

''(B) If, in the conduct of an audit or evaluation under paragraph (1), an agency record is not made available to the Comptroller General in accordance with section 716, the Comptroller General shall consult with the original requestor before filing a report under subsection (b)(1) of such section.

''(4)(A) The Comptroller General shall maintain the same level of confidentiality for a record made available for conducting an audit under paragraph (1) as is required of the head of the element of the intelligence community from which it is obtained. Officers and employees of the Government Accountability Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the intelligence community element that provided the Comptroller General or officers and employees of the Government Accountability Office with access to such records.

''(B) All workpapers of the Comptroller General and all records and property of any element of the intelligence community that the Comptroller General uses during an audit or evaluation under paragraph (1) shall remain in facilities provided by that element of the intelligence community. Elements of the intelligence community shall give the Comptroller General suitable and secure offices and furniture, telephones, and access to copying facilities, for purposes of audits and evaluations under paragraph (1).

''(C) After consultation with the Select Committee on Intelligence of the Senate and with the Permanent Select Committee on Intelligence of the House of Representatives, the Comptroller General shall establish procedures to protect from unauthorized disclosure all classified and other sensitive information furnished to the Comptroller General or any representative of the Comptroller General for conducting an audit or evaluation under paragraph (1).

''(D) Before initiating an audit or evaluation under paragraph (1), the Comptroller General shall provide the Director of National Intelligence and the head of the relevant element with the name of each officer and employee of the Government Accountability Office who has obtained appropriate security clearance and to whom, upon proper identification, records, and information of the element of the intelligence community shall be made available in conducting the audit or evaluation.

''(d) Elements of the intelligence community shall cooperate fully with the Comptroller General and provide timely responses to Comptroller General requests for documentation and information made pursuant to this section.

''(e) With the exception of the types of audits and evaluations specified in subsection (c)(1), nothing in this section or any other provision of law shall be construed as restricting or limiting the authority of the Comptroller General to audit, evaluate, or obtain access to the records of elements of the intelligence community absent specific statutory language restricting or limiting such audits, evaluations, or access to records.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 35 of title 31, United States Code, is amended by inserting after the item relating to section 3523 the following:

''3523A. Audits of intelligence community by Government Accountability Office.''.

**SEC. 336. REPORT ON COMPLIANCE WITH LAWS, INTERNATIONAL OBLIGATIONS, AND EXECUTIVE ORDERS ON THE DETENTION AND INTERROGATION ACTIVITIES OF THE INTELLIGENCE COMMUNITY.**

(a) REPORT REQUIRED.—Not later than December 1, 2009, the Director shall submit to the congressional intelligence committees a comprehensive report on all measures taken by the Office of the Director of National Intelligence and by each element, if any, of the intelligence community with relevant responsibilities to comply with the provisions of applicable law, international obligations, and executive orders relating to the detention or interrogation activities, if any, of any element of the intelligence community, including the Detainee Treatment Act of 2005 (title X of division A of Public Law 109–148; 119 Stat. 2739), related provisions of the Military Commissions Act of 2006 (Public Law 109–366; 120 Stat. 2600), common Article 3, the Convention Against Torture, Executive Order 13491 (74 Fed. Reg. 4893; relating to ensuring lawful interrogations), and Executive Order 13493 (74 Fed. Reg. 4901; relating to detention policy options).

(b) DEFINITIONS.—In this Act:

(1) COMMON ARTICLE 3.—The term ''common Article 3'' means Article 3 of each of the Geneva Conventions.

(2) CONVENTION AGAINST TORTURE.—The term ''Convention Against Torture'' means the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(3) DIRECTOR.—The term ''Director'' means the Director of National Intelligence.

(4) GENEVA CONVENTIONS.—The term ''Geneva Conventions'' means the following:

(A) The Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114).

(B) The Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217).

(C) The Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316).

(D) The Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(c) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the detention or interrogation methods, if any, that have been determined to comply with applicable law, international obligations, and Executive orders, and, with respect to each such method—

(A) an identification of the official making such determination; and

(B) a statement of the basis for such determination.

(2) A description of any recommendations of a task force submitted pursuant to—

(A) section 5(g) of Executive Order 13491 (74 Fed. Reg. 4893; relating to ensuring lawful interrogations); or

(B) section 1(g) of Executive Order 13493 (74 Fed. Reg. 4901; relating to detention policy options).

(3) A description of any actions taken pursuant to Executive Order 13491 or the recommendations of a task force issued pursuant to section 5(g) of Executive Order 13491 or section 1(g) of Executive Order 13493 relating to detention or interrogation activities, if any, of any element of the intelligence community.

(4) A description of any actions that have been taken to implement section 1004 of the Detainee Treatment Act of 2005 (119 Stat. 2740; 42 U.S.C. 2000dd–1), and, with respect to each such action—

(A) an identification of the official taking such action; and

(B) a statement of the basis for such action.

(5) Any other matters that the Director considers necessary to fully and currently inform the congressional intelligence committees about the implementation of applicable law, international obligations, and Executive orders relating to the detention or interrogation activities, if any, of any element of the intelligence community, including the Detainee Treatment Act of 2005 (title X of division A of Public Law 109–148; 119 Stat. 2739), related provisions of the Military Commissions Act of 2006 (Public Law 109–366; 120 Stat. 2600), common Article 3, the Convention Against Torture, Executive Order 13491, and Executive Order 13493.

(6) An appendix containing—

(A) all guidelines for the application of applicable law, international obligations, or Executive orders to the detention or interrogation activities, if any, of any element of the intelligence community; and

(B) the legal justifications of the Department of Justice about the meaning or application of applicable law, international obligations, or Executive orders, with respect to the detention or interrogation activities, if any, of any element of the intelligence community.

(d) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(e) SUBMISSION TO THE CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Defense, the Director shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(f) SUBMISSION TO THE CONGRESSIONAL JUDICIARY COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Justice, the Director shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

**SEC. 337. REPORTS ON NATIONAL SECURITY THREAT POSED BY GUANTANAMO BAY DETAINEES.**

In addition to the reports required by section 319 of the Supplemental Appropriations Act of 2009 (Public Law 111–32) and on the schedule required for such reports, the Director of National Intelligence shall submit to the congressional intelligence committees a report outlining the Director's assessment of the suitability for release or transfer for detainees previously released or transferred, or to be released or transferred, from the Naval Detention Facility at Guantanamo Bay, Cuba to the United States or any other country. Each such report shall include—

(1) a description of any objection to the release or recommendation against the release of such an individual made by any element of the intelligence community that determined the potential threat posed by a particular individual warranted the individual's continued detention;

(2) a detailed description of the intelligence information that led to such an objection or determination;

(3) if an element of the intelligence community previously recommended against the release of such an individual and later retracted that recommendation, a detailed explanation of the reasoning for the retraction; and

(4) an assessment of lessons learned from previous releases and transfers of individuals for whom the intelligence community objected or recommended against release.

**SEC. 338. REPORT ON RETIREMENT BENEFITS FOR FORMER EMPLOYEES OF AIR AMERICA.**

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the advisability of providing Federal retirement benefits to United States citizens for the service of such citizens prior to 1977 as employees of Air America or an associated company during a period when Air America or the associated company was owned or controlled by the United States Government and operated or managed by the Central Intelligence Agency.

(b) DEFINITIONS.—In this section:

(1) AIR AMERICA.—The term ''Air America'' means Air America, Incorporated.

(2) ASSOCIATED COMPANY.—The term ''associated company'' means any entity associated with, predecessor to, or subsidiary to Air America, including Air Asia Company Limited, CAT Incorporated, Civil Air Transport Company Limited, and the Pacific Division of Southern Air Transport during the period when such an entity was owned and controlled by the United States Government.

(c) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) The history of Air America and the associated companies prior to 1977, including a description of—

(A) the relationship between Air America and the associated companies and the Central Intelligence Agency or other elements of the United States Government;

(B) the workforce of Air America and the associated companies;

(C) the missions performed by Air America, the associated companies, and their employees for the United States; and

(D) the casualties suffered by employees of Air America and the associated companies in the course of their employment.

(2) A description of—

(A) the retirement benefits contracted for, or promised to, the employees of Air America and the associated companies prior to 1977;

(B) the contributions made by such employees for such benefits;

(C) the retirement benefits actually paid to such employees;

(D) the entitlement of such employees to the payment of future retirement benefits; and

(E) the likelihood that former employees of such companies will receive any future retirement benefits.

(3) An assessment of the difference between—

(A) the retirement benefits that former employees of Air America and the associated companies have received or will receive by virtue of their employment with Air America and the associated companies; and

(B) the retirement benefits that such employees would have received or be eligible to receive if such employment was deemed to be employment by the United States Government and their service during such employment was credited as Federal service for the purpose of Federal retirement benefits.

(4)(A) Any recommendations regarding the advisability of legislative action to treat such employment as Federal service for the purpose of Federal retirement benefits in light of the relationship between Air America and the associated companies and the United States Government and the services and sacrifices of such employees to and for the United States.

(B) If legislative action is considered advisable under subparagraph (A), a proposal for such action and an assessment of its costs.

(5) The opinions of the Director of the Central Intelligence Agency, if any, on the matters covered by the report that the Director of the Central Intelligence Agency considers appropriate.

(d) ASSISTANCE OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall, upon the request of the Director of National Intelligence and in a manner consistent with the protection of classified information, assist the Director in the preparation of the report required by subsection (a).

(e) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 339. REPORT AND STRATEGIC PLAN ON BIOLOGICAL WEAPONS.**

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional intelligence committees a report on—

(1) the intelligence collection efforts of the United States dedicated to assessing the threat from biological weapons from state, non-state, or rogue actors, either foreign or domestic; and

(2) efforts to protect the United States biodefense knowledge and infrastructure.

(b) CONTENT.—The report required by subsection (a) shall include—

(1) an accurate assessment of the intelligence collection efforts of the United States dedicated to detecting the development or use of biological weapons by state, non-state, or rogue actors, either foreign or domestic;

(2) detailed information on fiscal, human, technical, open source, and other intelligence collection resources of the United States dedicated for use against biological weapons;

(3) an assessment of any problems that may reduce the overall effectiveness of United States intelligence collection and analysis to identify and protect biological weapons targets, including—

(A) intelligence collection gaps or inefficiencies;

(B) inadequate information sharing practices; or

(C) inadequate cooperation among agencies or departments of the United States;

(4) a strategic plan prepared by the Director of National Intelligence, in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Homeland Security, that provides for actions for the appropriate elements of the intelligence community to close important intelligence gaps related to biological weapons;

(5) a description of appropriate goals, schedules, milestones, or metrics to measure the long-term effectiveness of actions implemented to carry out the plan described in paragraph (4); and

(6) any long-term resource and human capital issues related to the collection of intelligence regarding biological weapons, including any recommendations to address shortfalls of experienced and qualified staff possessing relevant scientific, language, and technical skills.

(c) IMPLEMENTATION OF STRATEGIC PLAN.—Not later than 30 days after the date that the Director of National Intelligence submits the report required by subsection (a), the Director shall begin implementation of the strategic plan referred to in subsection (b)(4).

**SEC. 340. CYBERSECURITY OVERSIGHT.**

(a) DEFINITIONS.—In this section:

(1) CYBERSECURITY PROGRAM.—The term ''cybersecurity program'' means a class or collection of similar cybersecurity operations of an agency or department of the United States that involves personally identifiable data that is—

(A) screened by a cybersecurity system outside of the agency or department of the United States that was the intended recipient;

(B) transferred, for the purpose of cybersecurity, outside the agency or department of the United States that was the intended recipient; or

(C) transferred, for the purpose of cybersecurity, to an element of the intelligence community.

(2) NATIONAL CYBER INVESTIGATIVE JOINT TASK FORCE.—The term ''National Cyber Investigative Joint Task Force'' means the multi-agency cyber investigation coordination organization overseen by the Director of the Federal Bureau of Investigation known as the Nation Cyber Investigative Joint Task Force that coordinates, integrates, and provides pertinent information related to cybersecurity investigations.

(3) CRITICAL INFRASTRUCTURE.—The term ''critical infrastructure'' has the meaning given that term in section 1016 of the USA PATRIOT Act (42 U.S.C. 5195c).

(b) NOTIFICATION OF CYBERSECURITY PROGRAMS.—

(1) REQUIREMENT FOR NOTIFICATION.—

(A) EXISTING PROGRAMS.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a notification for each cybersecurity program in operation on such date that includes the documentation referred to in subparagraphs (A) through (E) of paragraph (2).

(B) NEW PROGRAMS.—Not later than 30 days after the date of the commencement of operations of a new cybersecurity program, the President shall submit to Congress a notification of such commencement that includes the documentation referred to in subparagraphs (A) through (E) of paragraph (2).

(2) DOCUMENTATION.—A notification required by paragraph (1) for a cybersecurity program shall include—

(A) the legal justification for the cybersecurity program;

(B) the certification, if any, made pursuant to section 2511(2)(a)(ii)(B) of title 18, United States Code, or other statutory certification of legality for the cybersecurity program;

(C) the concept for the operation of the cybersecurity program that is approved by the head of the appropriate agency or department;

(D) the assessment, if any, of the privacy impact of the cybersecurity program prepared by the privacy or civil liberties protection officer or comparable officer of such agency or department; and

(E) the plan, if any, for independent audit or review of the cybersecurity program to be carried out by the head of the relevant department or agency of the United States, in conjunction with the appropriate inspector general.

(c) PROGRAM REPORTS.—

(1) REQUIREMENT FOR REPORTS.—The head of a department or agency of the United States with responsibility for a cybersecurity program for which a notification was submitted under subsection (b), in conjunction with the inspector general for that department or agency, shall submit to Congress and the President, in accordance with the schedule set out in paragraph (2), a report on such cybersecurity program that includes—

(A) the results of any audit or review of the cybersecurity program carried out under the plan referred to in subsection (b)(2)(E), if any; and

(B) an assessment of whether the implementation of the cybersecurity program—

(i) is in compliance with—

(I) the legal justification referred to in subsection (b)(2)(A); and

(II) the assessment referred to in subsection (b)(2)(D), if any;

(ii) is adequately described by the concept of operation referred to in subsection (b)(2)(C), if any; and

(iii) includes an adequate independent audit or review system and whether improvements to such independent audit or review system are necessary.

(2) SCHEDULE FOR SUBMISSION OF REPORTS.—The reports required by paragraph (1) shall be submitted to Congress and the President according to the following schedule:

(A) An initial report shall be submitted not later than 6 months after the date of the enactment of this Act.

(B) A second report shall be submitted not later than 1 year after the date of the enactment of this Act.

(C) Additional reports shall be submitted periodically thereafter, as necessary, as determined by the head of the relevant department or agency of the United States in conjunction with the inspector general of that department or agency.

(3) COOPERATION AND COORDINATION.—

(A) COOPERATION.—The head of each department or agency of the United States and inspector general required to submit a report under paragraph (1) shall work in conjunction, to the extent practicable, with any other such head or inspector general required to submit such a report.

(B) COORDINATION.—The heads of each department or agency of the United States and inspectors general required to submit reports under paragraph (1) shall designate one such head and one such inspector general to coordinate the conduct of such reports.

(d) INFORMATION SHARING REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security and the Inspector General of the Intelligence Community shall, jointly, submit to Congress and the President a report on the status of the sharing of cyber threat information, including—

(1) a description of how cyber threat intelligence information, including classified information, is shared among the agencies and departments of the United States and with persons responsible for critical infrastructure;

(2) a description of the mechanisms by which classified cyber threat information is distributed;

(3) an assessment of the effectiveness of such information sharing and distribution; and

(4) any other matters identified by such Inspectors General that would help to fully inform Congress or the President regarding the effectiveness and legality of cybersecurity programs.

(e) PERSONNEL DETAILS.—

(1) AUTHORITY TO DETAIL.—Notwithstanding any other provision of law, the head of an element of the intelligence community that is funded through the National Intelligence Program may detail an officer or employee of such element to the National Cyber Investigative Joint Task Force or to the Department of Homeland Security to assist the Task Force or the Department with cybersecurity, as jointly agreed by the head of such element and the Task Force or the Department.

(2) BASIS FOR DETAIL.—A personnel detail made under paragraph (1) may be made—

(A) for a period of not more than 3 years; and

(B) on a reimbursable or nonreimbursable basis.

(f) SUNSET.—The requirements and authorities of this section shall terminate on December 31, 2012.

**SEC. 341. REPEAL OR MODIFICATION OF CERTAIN REPORTING REQUIREMENTS.**

(a) ANNUAL REPORT ON INTELLIGENCE.—

(1) REPEAL.—Section 109 of the National Security Act of 1947 (50 U.S.C. 404d) is repealed.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by striking the item relating to section 109.

(b) ANNUAL AND SPECIAL REPORTS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS.—Section 112 of the National Security Act of 1947 (50 U.S.C. 404g) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) ANNUAL REPORT ON PROGRESS IN AUDITABLE FINANCIAL STATEMENTS.—

(1) REPEAL.—Section 114A of the National Security Act of 1947 (50 U.S.C. 404i–1) is repealed.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by striking the item relating to section 114A.

(d) ELIMINATION OF REPORTING REQUIREMENT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS.—

(1) IN GENERAL.—Section 118 of the National Security Act of 1947 (50 U.S.C. 404m) is amended—

(A) in the section heading, by striking ''**SEMIANNUAL REPORT ON**'' and inserting ''**EMERGENCY NOTIFICATION REGARDING**'';

(B) by striking subsection (a);

(C) by redesignating subsection (b) as subsection (a);

(D) by striking subsection (c); and

(E) by redesignating subsection (d) as subsection (b).

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by striking the item related to section 118 and inserting the following:

''Sec. 118. Emergency notification regarding financial intelligence on terrorist assets.''.

(e) ANNUAL CERTIFICATION ON COUNTERINTELLIGENCE INITIATIVES.—Section 1102(b) of the National Security Act of 1947 (50 U.S.C. 442a(b)) is amended—

(1) by striking ''(1)''; and

(2) by striking paragraph (2).

(f) REPORT AND CERTIFICATION UNDER TERRORIST IDENTIFICATION CLASSIFICATION SYSTEM.—Section 343 of the Intelligence Authorization Act for Fiscal Year 2003 (50 U.S.C. 404n–2) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

(g) ANNUAL REPORT ON COUNTERDRUG INTELLIGENCE MATTERS.—Section 826 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2429; 21 U.S.C. 873 note) is repealed.

(h) BIENNIAL REPORT ON FOREIGN INDUSTRIAL ESPIONAGE.—Subsection (b) of section 809 of the Intelligence Authorization Act for Fiscal Year 1995 (50 U.S.C. App. 2170b) is amended—

(1) in the heading, by striking ''ANNUAL UPDATE'' and inserting ''BIENNIAL REPORT'';

(2) by striking paragraphs (1) and (2) and inserting the following:

''(1) REQUIREMENT TO SUBMIT.—Not later than February 1, 2010 and once every two years thereafter, the President shall submit

to the congressional intelligence committees and congressional leadership a report updating the information referred to in subsection (a) (1) (D) not later than February 1, 2010 and every two years thereafter.''; and

(3) by redesignating paragraph (3) as paragraph (2).

(i) CONFORMING AMENDMENTS.—Section 507(a) of the National Security Act of 1947 (50 U.S.C. 415b(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraphs (A) and (B); and

(B) by redesignating subparagraphs (C) through (N) as subparagraphs (A) through (L), respectively; and

(2) in paragraph (2), by striking subparagraph (D).

**Subtitle E—Other Matters**

**SEC. 351. EXTENSION OF AUTHORITY TO DELETE INFORMATION ABOUT RECEIPT AND DISPOSITION OF FOREIGN GIFTS AND DECORATIONS.**

Paragraph (4) of section 7342(f) of title 5, United States Code, is amended to read as follows:

''(4)(A) In transmitting such listings for an element of the intelligence community, the head of such element may delete the information described in subparagraph (A) or (C) of paragraph (2) or in subparagraph (A) or (C) of paragraph (3) if the head of such element certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources or methods.

''(B) Any information not provided to the Secretary of State pursuant to the authority in subparagraph (A) shall be transmitted to the Director of National Intelligence who shall keep a record of such information.

''(C) In this paragraph, the term 'element of the intelligence community' means an element of the intelligence community listed in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

**SEC. 352. MODIFICATION OF AVAILABILITY OF FUNDS FOR DIFFERENT INTELLIGENCE ACTIVITIES.**

Subparagraph (B) of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended to read as follows:

''(B) the use of such funds for such activity supports an emergent need, improves program effectiveness, or increases efficiency; and''.

**SEC. 353. LIMITATION ON REPROGRAMMINGS AND TRANSFERS OF FUNDS.**

(a) IN GENERAL.—Paragraph (3) of section 504 of the National Security Act of 1947 (50 U.S.C. 414) is amended—

(1) in subparagraph (B), as amended by section 353, by striking ''and'' at the end;

(2) in subparagraph (C), by adding ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(D) the making available of such funds for such activity complies with the requirements in subsection (d);''.

(b) PROCEDURES.—Such section 504 is further amended—

(1) by redesignating subsections (c), (d), (e), and (f), as redesignated by section 334(2), as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

''(c)(1) Except as provided in paragraph (2), if following a notice of intent to make funds available for a different activity under subsection (a)(3)(C) one of the congressional intelligence committees submits to the element of the intelligence community that will carry out such activity a request for additional information on such activity, such funds may not be made available for such activity under subsection (a)(3) until such date, up to 90 days after the date of such request, as specified by such congressional intelligence committee.

''(2) The President may waive the requirements of paragraph (1) and make funds available for an element of the intelligence community to carry out a different activity under subsection (a)(3) if the President submits to the congressional intelligence committees a certification providing that—

''(A) the use of such funds for such activity is necessary to fulfill an urgent operational requirement, excluding a cost overrun on the acquisition of a major system, of an element of the intelligence community; and

''(B) such waiver is necessary so that an element of the intelligence community may carry out such activity prior to the date that funds would be made available under paragraph (1).''.

(c) DEFINITIONS.—Subsection (g) of such section 504, as redesignated by subsection (b)(1) of this section, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by redesignating paragraphs (1) and (2) as paragraphs (1) and (2), respectively;

(3) by striking ''and'' at the end of paragraph (1), as redesignated by paragraph (2) of this subsection; and

(4) by inserting after paragraph (2), as redesignated by paragraph (2) of this subsection, the following:

''(3) the term 'major system' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403); and''.

**SEC. 354. PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION.**

(a) INCREASE IN PENALTIES FOR DISCLOSURE OF UNDERCOVER INTELLIGENCE OFFICERS AND AGENTS.—

(1) DISCLOSURE OF AGENT AFTER ACCESS TO INFORMATION IDENTIFYING AGENT.—Subsection (a) of section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended by striking ''ten years'' and inserting ''15 years''.

(2) DISCLOSURE OF AGENT AFTER ACCESS TO CLASSIFIED INFORMATION.—Subsection (b) of such section is amended by striking ''five years'' and inserting ''10 years''.

(b) MODIFICATIONS TO ANNUAL REPORT ON PROTECTION OF INTELLIGENCE IDENTITIES.—The first sentence of section 603(a) of the National Security Act of 1947 (50 U.S.C. 423(a)) is amended by inserting ''including an assessment of the need for any modification of this title for the purpose of improving legal protections for covert agents,'' after ''measures to protect the identities of covert agents,''.

**SEC. 355. NATIONAL INTELLIGENCE PROGRAM BUDGET REQUEST.**

(a) FINDING.—Congress finds that the Report of the National Commission on Terrorist Attacks Upon the United States (the ''9/11 Commission'') recommended that ''the overall amounts of money being appropriated for national intelligence and to its component agencies should no longer be kept secret'' and that ''Congress should pass a separate appropriations act for intelligence, defending the broad allocation of how these tens of billions of dollars have been assigned among the varieties of intelligence work.''.

(b) NATIONAL INTELLIGENCE PROGRAM BUDGET REQUEST.—Section 601 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (50 U.S.C. 415c) is amended by striking subsection (b) and inserting the following:

''(b) BUDGET REQUEST.—On the date that the President submits to Congress the budget for a fiscal year required under section 1105 of title 31, United States Code, the President shall disclose to the public the aggregate amount of appropriations requested for that fiscal year for the National Intelligence Program.''.

**SEC. 356. IMPROVING THE REVIEW AUTHORITY OF THE PUBLIC INTEREST DECLASSIFICATION BOARD.**

Paragraph (5) of section 703(b) of the Public Interest Declassification Act of 2000 (50 U.S.C. 435 note) is amended—

(1) by striking ''jurisdiction,'' and inserting ''jurisdiction or by a member of the committee of jurisdiction,''; and

(2) by inserting '', evaluate the proper classification of certain records,'' after ''certain records''.

**SEC. 357. AUTHORITY TO DESIGNATE UNDERCOVER OPERATIONS TO COLLECT FOREIGN INTELLIGENCE OR COUNTERINTELLIGENCE.**

Paragraph (1) of section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (Public Law 102–395; 28 U.S.C. 533 note) is amended in the flush text following subparagraph (D) by striking ''(or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Assistant Attorney General for National Security)'' and inserting ''(or a designee of the Director who is in a position not lower than Deputy Assistant Director in the National Security Branch or a similar successor position) and the Attorney General (or a designee of the Attorney General who is in the National Security Division in a position not lower than Deputy Assistant Attorney General or a similar successor position)''.

**SEC. 358. CORRECTING LONG-STANDING MATERIAL WEAKNESSES.**

(a) DEFINITIONS.—In this section:

(1) COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term ''covered element of the intelligence community'' means—

(A) the Central Intelligence Agency;

(B) the Defense Intelligence Agency;

(C) the National Geospatial-Intelligence Agency;

(D) the National Reconnaissance Office; or

(E) the National Security Agency.

(2) INDEPENDENT AUDITOR.—The term ''independent auditor'' means an individual who—

(A)(i) is a Federal, State, or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

(ii) is a public accountant who meets such independence standards; and

(B) is designated as an auditor by the Director of National Intelligence or the head of a covered element of the intelligence community, as appropriate.

(3) LONG-STANDING, CORRECTABLE MATERIAL WEAKNESS.—The term ''long-standing, correctable material weakness'' means a material weakness—

(A) that was first reported in the annual financial report of a covered element of the intelligence community for a fiscal year prior to fiscal year 2007; and

(B) the correction of which is not substantially dependent on a business system that will not be implemented prior to the end of fiscal year 2010.

(4) MATERIAL WEAKNESS.—The term ''material weakness'' has the meaning given that term under the Office of Management and Budget Circular A–123, entitled ''Management's Responsibility for Internal Control,'' revised December 21, 2004.

(5) COVERED PROGRAM.—The term ''covered program'' means—

(A) the Central Intelligence Agency Program;

(B) the Consolidated Cryptologic Program;

(C) the General Defense Intelligence Program;

(D) the National Geospatial-Intelligence Program; or

(E) the National Reconnaissance Program.

(6) SENIOR INTELLIGENCE MANAGEMENT OFFICIAL.—The term ''senior intelligence management official'' means an official within a covered element of the intelligence community who holds a position—

(A)(i) for which the level of the duties and responsibilities and the rate of pay are comparable to that of a position—

(I) above grade 15 of the General Schedule (as described in section 5332 of title 5, United States Code); or

(II) at or above level IV of the Executive Level (as described in section 5315 of title 5, United States Code); or

(ii) as the head of a covered element of the intelligence community; and

(B) which is compensated for employment with funds appropriated pursuant to an authorization of appropriations in this Act.

(b) IDENTIFICATION OF SENIOR INTELLIGENCE MANAGEMENT OFFICIALS.—

(1) REQUIREMENT TO IDENTIFY.—Not later than 30 days after the date of the enactment of this Act, the head of a covered element of the intelligence community shall identify each senior intelligence management official of such element who is responsible for correcting a long-standing, correctable material weakness.

(2) HEAD OF A COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The head of a covered element of the intelligence community may designate himself or herself as the senior intelligence management official responsible for correcting a long-standing, correctable material weakness.

(3) REQUIREMENT TO UPDATE DESIGNATION.—In the event a senior intelligence management official identified under paragraph (1) is determined by the head of the appropriate covered element of the intelligence community to no longer be responsible for correcting a long-standing, correctable material weakness, the head of such element shall identify the successor to such official not later than 10 days after the date of such determination.

(c) NOTIFICATION.—Not later than 10 days after the date that the head of a covered element of the intelligence community has identified a senior intelligence management official pursuant to subsection (b)(1), the head of such element shall provide written notification of such identification to the Director of National Intelligence and to such senior intelligence management official.

(d) INDEPENDENT REVIEW.—

(1) NOTIFICATION OF CORRECTION OF DEFICIENCY.—A senior intelligence management official who has received a notification under subsection (c) regarding a long-standing, correctable material weakness shall notify the head of the appropriate covered element of the intelligence community, not later than 5 days after the date that such official determines that the specified material weakness is corrected.

(2) REQUIREMENT FOR INDEPENDENT REVIEW.—

(A) IN GENERAL.—Not later than 10 days after the date a notification is provided under paragraph (1), the head of the appropriate covered element of the intelligence community shall appoint an independent auditor to conduct an independent review to determine whether the specified long-standing, correctable material weakness has been corrected.

(B) REVIEW ALREADY IN PROCESS.—If an independent review is already being conducted by an independent auditor, the head of the covered element of the intelligence community may approve the continuation of such review to comply with subparagraph (A).

(C) CONDUCT OF REVIEW.—A review conducted under subparagraph (A) or (B) shall be conducted as expeditiously as possible and in accordance with generally accepted accounting principles.

(3) NOTIFICATION OF RESULTS OF REVIEW.—Not later than 5 days after the date that a review required by paragraph (2) is completed, the independent auditor shall submit to the head of the covered element of the intelligence community, the Director of National Intelligence, and the senior intelligence management official involved a notification of the results of such review.

(e) CONGRESSIONAL OVERSIGHT.—The head of a covered element of the intelligence community shall notify the congressional intelligence committees not later than 30 days after the date of—

(1) that a senior intelligence management official is identified under subsection (b)(1) and notified under subsection (c); or

(2) the correction of a long-standing, correctable material weakness, as verified by an independent review under subsection (d)(2).

## TITLE IV—MATTERS RELATING TO ELEMENTS OF THE INTELLIGENCE COMMUNITY

### Subtitle A—Office of the Director of National Intelligence

#### SEC. 401. ACCOUNTABILITY REVIEWS BY THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) RESPONSIBILITY OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—Subsection (b) of section 102 of the National Security Act of 1947 (50 U.S.C. 403) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3)—

(A) by striking ''2004,'' and inserting ''2004 (Public Law 108–458; 50 U.S.C. 403 note),''; and

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(4) conduct accountability reviews of elements of the intelligence community and the personnel of such elements, if appropriate.''.

(b) TASKING AND OTHER AUTHORITIES.—Subsection (f) of section 102A of the National Security Act of 1947 (50 U.S.C. 403–1) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following new paragraph:

''(7)(A) The Director of National Intelligence shall, if the Director determines it is necessary, or may, if requested by a congressional intelligence committee, conduct an accountability review of an element of the intelligence community or the personnel of such element in relation to a failure or deficiency within the intelligence community.

''(B) The Director of National Intelligence, in consultation with the Attorney General, shall establish guidelines and procedures for conducting an accountability review under subparagraph (A).

''(C)(i) The Director of National Intelligence shall provide the findings of an accountability review conducted under subparagraph (A) and the Director's recommendations for corrective or punitive action, if any, to the head of the applicable element of the intelligence community. Such recommendations may include a recommendation for dismissal of personnel.

''(ii) If the head of such element does not implement a recommendation made by the Director under clause (i), the head of such element shall submit to the congressional intelligence committees a notice of the determination not to implement the recommendation, including the reasons for the determination.

''(D) The requirements of this paragraph shall not limit any authority of the Director of National Intelligence under subsection (m) or with respect to supervision of the Central Intelligence Agency.''.

#### SEC. 402. AUTHORITIES FOR INTELLIGENCE INFORMATION SHARING.

(a) AUTHORITIES FOR INTERAGENCY FUNDING.—Section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

''(G) in carrying out this subsection, without regard to any other provision of law (other than this Act and the National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458; 118 Stat. 3643)), expend funds and make funds available to other departments or agencies of the United States for, and direct the development and fielding of, systems of common concern related to the collection, processing, analysis, exploitation, and dissemination of intelligence information; and

''(H) for purposes of addressing critical gaps in intelligence information sharing or access capabilities, have the authority to transfer funds appropriated for a program within the National Intelligence Program to a program funded by appropriations not within the National Intelligence Program, consistent with paragraphs (3) through (7) of subsection (d).''.

(b) AUTHORITIES OF HEADS OF OTHER DEPARTMENTS AND AGENCIES.—Notwithstanding any other provision of law, the head of any department or agency of the United States is authorized to receive and utilize funds made available to the department or agency by the Director of National Intelligence pursuant to section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)), as amended by subsection (a), and receive and utilize any system referred to in such section that is made available to the department or agency.

(c) REPORTS.—

(1) REQUIREMENT FOR REPORTS.—Not later than February 1 of each of the fiscal years 2011 through 2014, the Director of National Intelligence shall submit to the congressional intelligence committees a report detailing the distribution of funds and systems during the preceding fiscal year pursuant to subparagraph (G) or (H) of section 102A(g)(1) of the National Security Act of 1947 (50 U.S.C. 403–1(g)(1)), as added by subsection (a).

(2) CONTENT.—Each such report shall include—

(A) a listing of the agencies or departments to which such funds or systems were distributed;

(B) a description of the purpose for which such funds or systems were distributed; and

(C) a description of the expenditure of such funds, and the development, fielding, and use of such systems by the receiving agency or department.

#### SEC. 403. AUTHORITIES FOR INTERAGENCY FUNDING.

(a) IN GENERAL.—Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), as amended by sections 303, 304, and 312, is further amended by adding at the end the following new subsection:

''(x) AUTHORITIES FOR INTERAGENCY FUNDING.—(1) Notwithstanding section 1346 of title 31, United States Code, or any other provision of law prohibiting the interagency financing of activities described in subparagraph (A) or (B), upon the request of the Director of National Intelligence, any element of the intelligence community may use appropriated funds to support or participate in the interagency activities of the following:

''(A) National intelligence centers established by the Director under section 119B.

''(B) Boards, commissions, councils, committees, and similar groups that are established—

''(i) for a term of not more than 2 years; and

''(ii) by the Director.

''(2) No provision of law enacted after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010 shall be construed to limit or supersede the authority in paragraph (1) unless such provision makes specific reference to the authority in that paragraph.''.

(b) REPORTS.—Not later than February 1 of each fiscal year 2011 through 2014, the Director of National Intelligence shall submit to the congressional intelligence committees a report detailing the exercise of any authority pursuant to subsection (x) of section 102A of the National Security Act of 1947 (50 U.S.C. 403–1), as added by subsection (a), during the preceding fiscal year.

**SEC. 404. LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**

Subsection (e) of section 103 of the National Security Act of 1947 (50 U.S.C. 403–3) is amended to read as follows:

''(e) LOCATION OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—The headquarters of the Office of the Director of National Intelligence may be located in the Washington metropolitan region, as that term is defined in section 8301 of title 40, United States Code.''.

**SEC. 405. ADDITIONAL DUTIES OF THE DIRECTOR OF SCIENCE AND TECHNOLOGY.**

(a) IN GENERAL.—Section 103E of the National Security Act of 1947 (50 U.S.C. 403–3e) is amended—

(1) in subsection (c)—

(A) by redesignating paragraph (5) as paragraph (7);

(B) in paragraph (4), by striking ''and'' at the end; and

(C) by inserting after paragraph (4) the following:

''(5) assist the Director in establishing goals for basic, applied, and advanced research to meet the technology needs of the intelligence community and to be executed by elements of the intelligence community by—

''(A) systematically identifying, assessing, and prioritizing the most significant intelligence challenges that require technical solutions; and

''(B) examining options to enhance the responsiveness of research programs;

''(6) submit to Congress an annual report on the science and technology strategy of the Director; and''; and

(2) in paragraph (3) of subsection (d)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(B) in subparagraph (B), as so redesignated, by inserting ''and prioritize'' after ''coordinate''; and

(C) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

''(A) identify basic, advanced, and applied research programs to be executed by elements of the intelligence community;''.

(b) SENSE OF CONGRESS ON SUPERVISION OF THE DIRECTOR OF SCIENCE AND TECHNOLOGY.—It is the sense of Congress that the Director of Science and Technology of the Office of the Director of National Intelligence should report only to a member of such Office who is appointed by the President, by and with the consent of the Senate.

**SEC. 406. TITLE AND APPOINTMENT OF CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.**

Section 103G of the National Security Act of 1947 (50 U.S.C. 403–3g) is amended—

(1) in subsection (a)—

(A) by inserting ''of the Intelligence Community'' after ''Chief Information Officer''; and

(B) by striking ''President,'' and all that follows and inserting ''President.'';

(2) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(3) in subsection (b) (as so redesignated), by inserting ''of the Intelligence Community'' after ''Chief Information Officer''; and

(4) in subsection (c) (as so redesignated), by inserting ''of the Intelligence Community'' after ''Chief Information Officer'' the first place it appears.

**SEC. 407. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 103G the following new section:

''INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY

''SEC. 103H. (a) OFFICE OF INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.—There is within the Office of the Director of National Intelligence an Office of the Inspector General of the Intelligence Community.

''(b) PURPOSE.—The purpose of the Office of the Inspector General of the Intelligence Community is—

''(1) to create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, audits, and reviews on programs and activities within the responsibility and authority of the Director of National Intelligence;

''(2) to provide leadership and coordination and recommend policies for activities designed—

''(A) to promote economy, efficiency, and effectiveness in the administration and implementation of such programs and activities; and

''(B) to prevent and detect fraud and abuse in such programs and activities;

''(3) to provide a means for keeping the Director of National Intelligence fully and currently informed about—

''(A) problems and deficiencies relating to the administration of programs and activities within the responsibility and authority of the Director of National Intelligence; and

''(B) the necessity for, and the progress of, corrective actions; and

''(4) in the manner prescribed by this section, to ensure that the congressional intelligence committees are kept similarly informed of—

''(A) significant problems and deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence; and

''(B) the necessity for, and the progress of, corrective actions.

''(c) INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) The nomination of an individual for appointment as Inspector General shall be made—

''(A) without regard to political affiliation;

''(B) on the basis of integrity, compliance with security standards of the intelligence community, and prior experience in the field of intelligence or national security; and

''(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or investigations.

''(3) The Inspector General shall report directly to and be under the general supervision of the Director of National Intelligence.

''(4) The Inspector General may be removed from office only by the President. The President shall communicate in writing to the congressional intelligence committees the reasons for the removal not later than 30 days prior to the effective date of such removal.

''(d) ASSISTANT INSPECTORS GENERAL.—Subject to applicable law and the policies of the Director of National Intelligence, the Inspector General shall—

''(1) appoint an Assistant Inspector General for Audit who shall have the responsibility for supervising the performance of auditing activities relating to programs and activities within the responsibility and authority of the Director;

''(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and activities; and

''(3) appoint other Assistant Inspectors General that, in the judgment of the Inspector General, are necessary to carry out the duties of the Inspector General.

''(e) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General of the Intelligence Community—

''(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, audits, and reviews relating to programs and activities within the responsibility and authority of the Director of National Intelligence;

''(2) to keep the Director of National Intelligence fully and currently informed concerning violations of law and regulations, fraud and other serious problems, abuses, and deficiencies relating to the programs and activities within the responsibility and authority of the Director, to recommend corrective action concerning such problems, and to report on the progress made in implementing such corrective action;

''(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

''(4) in the execution of the duties and responsibilities under this section, to comply with generally accepted government auditing.

''(f) LIMITATIONS ON ACTIVITIES.—(1) The Director of National Intelligence may prohibit the Inspector General of the Intelligence Community from initiating, carrying out, or completing any investigation, inspection, audit, or review if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

''(2) If the Director exercises the authority under paragraph (1), the Director shall submit an appropriately classified statement of the reasons for the exercise of such authority within 7 days to the congressional intelligence committees.

''(3) The Director shall advise the Inspector General at the time a statement under paragraph (2) is submitted, and, to the extent

consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such statement.

''(4) The Inspector General may submit to the congressional intelligence committees any comments on the statement of which the Inspector General has notice under paragraph (3) that the Inspector General considers appropriate.

''(g) AUTHORITIES.—(1) The Inspector General of the Intelligence Community shall have direct and prompt access to the Director of National Intelligence when necessary for any purpose pertaining to the performance of the duties of the Inspector General.

''(2)(A) The Inspector General shall, subject to the limitations in subsection (f), make such investigations and reports relating to the administration of the programs and activities within the authorities and responsibilities of the Director as are, in the judgment of the Inspector General, necessary or desirable.

''(B) The Inspector General shall have access to any employee, or any employee of contract personnel, of any element of the intelligence community needed for the performance of the duties of the Inspector General.

''(C) The Inspector General shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and activities with respect to which the Inspector General has responsibilities under this section.

''(D) The level of classification or compartmentation of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under subparagraph (C).

''(E) The Director, or on the recommendation of the Director, another appropriate official of the intelligence community, shall take appropriate administrative actions against an employee, or an employee of contract personnel, of an element of the intelligence community that fails to cooperate with the Inspector General. Such administrative action may include loss of employment or the termination of an existing contractual relationship.

''(3) The Inspector General is authorized to receive and investigate, pursuant to subsection (h), complaints or information from any person concerning the existence of an activity within the authorities and responsibilities of the Director of National Intelligence constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received from an employee of the intelligence community—

''(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

''(B) no action constituting a reprisal, or threat of reprisal, for making such complaint or disclosing such information to the Inspector General may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

''(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the duties of the Inspector General, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of the Inspector General of the Intelligence Community designated by the Inspector General shall have the same force and effect as if administered or taken by, or before, an officer having a seal.

''(5)(A) Except as provided in subparagraph (B), the Inspector General is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data in any medium (including electronically stored information, as well as any tangible thing) and documentary evidence necessary in the performance of the duties and responsibilities of the Inspector General.

''(B) In the case of departments, agencies, and other elements of the United States Government, the Inspector General shall obtain information, documents, reports, answers, records, accounts, papers, and other data and evidence for the purpose specified in subparagraph (A) using procedures other than by subpoenas.

''(C) The Inspector General may not issue a subpoena for, or on behalf of, any component of the Office of the Director of National Intelligence or any element of the intelligence community, including the Office of the Director of National Intelligence.

''(D) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, the subpoena shall be enforceable by order of any appropriate district court of the United States.

''(6) The Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade 15 of the General Schedule (as described in section 5332 of title 5, United States Code).

''(7) The Inspector General may, to the extent and in such amounts as may be provided in appropriations, enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

''(h) COORDINATION AMONG INSPECTORS GENERAL.—(1)(A) In the event of a matter within the jurisdiction of the Inspector General of the Intelligence Community that may be subject to an investigation, inspection, audit, or review by both the Inspector General of the Intelligence Community and an inspector general, whether statutory or administrative, with oversight responsibility for an element or elements of the intelligence community, the Inspector General of the Intelligence Community and such other inspector or inspectors general shall expeditiously resolve the question of which inspector general shall conduct such investigation, inspection, audit, or review to avoid unnecessary duplication of the activities of the Offices of the Inspectors General.

''(B) In attempting to resolve a question under subparagraph (A), the inspectors general concerned may request the assistance of the Intelligence Community Inspectors General Forum established under paragraph (2). In the event of a dispute between an inspector general within an agency or department of the United States Government and the Inspector General of the Intelligence Community that has not been resolved with the assistance of such Forum, the inspectors general shall submit the question to the Director of National Intelligence and the head of the affected agency or department for resolution.

''(2)(A) There is established the Intelligence Community Inspectors General Forum, which shall consist of all statutory or administrative inspectors general with oversight responsibility for an element or elements of the intelligence community.

''(B) The Inspector General of the Intelligence Community shall serve as the Chair of the Forum established under subparagraph (A). The Forum shall have no administrative authority over any inspector general, but shall serve as a mechanism for informing its members of the work of individual members of the Forum that may be of common interest and discussing questions about jurisdiction or access to employees, employees of contract personnel, records, audits, reviews, documents, recommendations, or other materials that may involve or be of assistance to more than 1 of its members.

''(3) The Inspector General conducting an investigation, inspection, audit, or review covered by paragraph (1) shall submit the results of such investigation, inspection, audit, or review to any other Inspector General, including the Inspector General of the Intelligence Community, with jurisdiction to conduct such investigation, inspection, audit, or review who did not conduct such investigation, inspection, audit, or review.

''(i) COUNSEL TO THE INSPECTOR GENERAL.—The Inspector General of the Intelligence Community shall—

''(1) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

''(2) obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.

''(j) STAFF AND OTHER SUPPORT.—(1) The Director of National Intelligence shall provide the Inspector General of the Intelligence Community with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

''(2)(A) Subject to applicable law and the policies of the Director of National Intelligence, the Inspector General shall select, appoint, and employ such officers and employees as may be necessary to carry out the functions, powers, and duties of the Inspector General. The Inspector General shall ensure that any officer or employee so selected, appointed, or employed has security clearances appropriate for the assigned duties of such officer or employee.

''(B) In making selections under subparagraph (A), the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable the Inspector General to carry out the duties of the Inspector General effectively.

''(C) In meeting the requirements of this paragraph, the Inspector General shall create within the Office of the Inspector General of the Intelligence Community a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of the duties of the Inspector General.

''(3) Consistent with budgetary and personnel resources allocated by the Director of National Intelligence, the Inspector General has final approval of—

''(A) the selection of internal and external candidates for employment with the Office of the Inspector General; and

''(B) all other personnel decisions concerning personnel permanently assigned to the Office of Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security based determinations that are not within the authority of a head of a component of the Office of the Director of National Intelligence.

''(4)(A) Subject to the concurrence of the Director of National Intelligence, the Inspector General may request such information or assistance as may be necessary for carrying out the duties and responsibilities of the Inspector General from any department, agency, or other element of the United States Government.

''(B) Upon request of the Inspector General for information or assistance under subparagraph (A), the head of the department, agency, or element concerned shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the department, agency, or element, furnish to the Inspector General, or to an authorized designee, such information or assistance.

''(C) The Inspector General of the Intelligence Community may, upon reasonable notice to the head of any element of the intelligence community and in coordination with that element's inspector general pursuant to subsection (h), conduct, as authorized by this section, an investigation, inspection, audit, or review of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

''(k) REPORTS.—(1)(A) The Inspector General of the Intelligence Community shall, not later than January 31 and July 31 of each year, prepare and submit to the Director of National Intelligence a classified, and, as appropriate, unclassified semiannual report summarizing the activities of the Office of the Inspector General of the Intelligence Community during the immediately preceding 6-month period ending December 31 (of the preceding year) and June 30, respectively. The Inspector General of the Intelligence Community shall provide any portion of the report involving a component of a department of the United States Government to the head of that department simultaneously with submission of the report to the Director of National Intelligence.

''(B) Each report under this paragraph shall include, at a minimum, the following:

''(i) A list of the title or subject of each investigation, inspection, audit, or review conducted during the period covered by such report.

''(ii) A description of significant problems, abuses, and deficiencies relating to the administration of programs and activities of the intelligence community within the responsibility and authority of the Director of National Intelligence, and in the relationships between elements of the intelligence community, identified by the Inspector General during the period covered by such report.

''(iii) A description of the recommendations for corrective action made by the Inspector General during the period covered by such report with respect to significant problems, abuses, or deficiencies identified in clause (ii).

''(iv) A statement of whether or not corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action.

''(v) A certification of whether or not the Inspector General has had full and direct access to all information relevant to the performance of the functions of the Inspector General.

''(vi) A description of the exercise of the subpoena authority under subsection (g)(5) by the Inspector General during the period covered by such report.

''(vii) Such recommendations as the Inspector General considers appropriate for legislation to promote economy, efficiency, and effectiveness in the administration and implementation of programs and activities within the responsibility and authority of the Director of National Intelligence, and to detect and eliminate fraud and abuse in such programs and activities.

''(C) Not later than 30 days after the date of receipt of a report under subparagraph (A), the Director shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of the report involving a component of such department simultaneously with submission of the report to the congressional intelligence committees.

''(2)(A) The Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to programs and activities within the responsibility and authority of the Director of National Intelligence.

''(B) The Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves a problem, abuse, or deficiency related to a component of such department simultaneously with transmission of the report to the congressional intelligence committees.

''(3)(A) In the event that—

''(i) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

''(ii) an investigation, inspection, audit, or review carried out by the Inspector General focuses on any current or former intelligence community official who—

''(I) holds or held a position in an element of the intelligence community that is subject to appointment by the President, whether or not by and with the advice and consent of the Senate, including such a position held on an acting basis;

''(II) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the Director of National Intelligence; or

''(III) holds or held a position as head of an element of the intelligence community or a position covered by subsection (b) or (c) of section 106;

''(iii) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in clause (ii);

''(iv) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in clause (ii); or

''(v) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, audit, or review,

the Inspector General shall immediately notify, and submit a report to, the congressional intelligence committees on such matter.

''(B) The Inspector General shall submit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves an investigation, inspection, audit, or review carried out by the Inspector General focused on any current or former official of a component of such department simultaneously with submission of the report to the congressional intelligence committees.

''(4) Pursuant to title V, the Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, audit, or review conducted by the office which has been requested by the Chairman or Vice Chairman or Ranking Minority Member of either committee.

''(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of contract personnel to the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

''(B) Not later than the end of the 14-calendar-day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. Upon making such a determination, the Inspector General shall transmit to the Director a notice of that determination, together with the complaint or information.

''(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.

''(D)(i) If the Inspector General does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the congressional intelligence committees directly.

''(ii) An employee may contact the intelligence committees directly as described in clause (i) only if the employee—

''(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee's complaint or information and notice of the employee's intent to contact the congressional intelligence committees directly; and

''(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the congressional intelligence committees in accordance with appropriate security practices.

''(iii) A member or employee of one of the congressional intelligence committees who receives a complaint or information under clause (i) does so in that member or employee's official capacity as a member or employee of such committee.

''(E) The Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

''(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

''(G) In this paragraph, the term 'urgent concern' means any of the following:

''(i) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity

within the responsibility and authority of the Director of National Intelligence involving classified information, but does not include differences of opinions concerning public policy matters.

''(ii) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

''(iii) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (f)(3)(B) of this section in response to an employee's reporting an urgent concern in accordance with this paragraph.

''(H) In support of this paragraph, Congress makes the findings set forth in paragraphs (1) through (6) of section 701(b) of the Intelligence Community Whistleblower Protection Act of 1998 (title VII of Public Law 105–272; 5 U.S.C. App. 8H note).

''(I) Nothing in this section shall be construed to limit the protections afforded to an employee under the Intelligence Community Whistleblower Protection Act of 1988 (title VII of Public Law 105–272, 5 U.S.C. App. 8H note).

''(6) In accordance with section 535 of title 28, United States Code, the Inspector General shall expeditiously report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involves a program or operation of an element of the intelligence community, or in the relationships between the elements of the intelligence community, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of each such report shall be furnished to the Director.

''(l) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—Except as resolved pursuant to subsection (h), the performance by the Inspector General of the Intelligence Community of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or affect the duties and responsibilities of any other Inspector General, whether statutory or administrative, having duties and responsibilities relating to such element.

''(m) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of Inspector General of the Intelligence Community.

''(n) BUDGET.—(1) For each fiscal year, the Inspector General of the Intelligence Community shall transmit a budget estimate and request to the Director of National Intelligence that specifies for such fiscal year—

''(A) the aggregate amount requested for the operations of the Inspector General;

''(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office of the Inspector General; and

''(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification of such amount.

''(2) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

''(A) the aggregate amount requested for the Inspector General of the Intelligence Community;

''(B) the amount requested by the Inspector General for training;

''(C) the amounts requested to support of the Council of the Inspectors General on Integrity and Efficiency; and

''(D) the comments of the Inspector General, if any, with respect to the proposal.

''(3) The Director of National Intelligence shall submit to the congressional intelligence committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives for each fiscal year—

''(A) a separate statement of the budget estimate transmitted pursuant to paragraph (1);

''(B) the amount requested by the Director for the Inspector General pursuant to paragraph (2);

''(C) the amount requested by the Director for training for personnel of the Office of the Inspector General;

''(D) the amount requested by the Director for support for the Council of the Inspectors General on Integrity and Efficiency; and

''(E) the comments of the Inspector General, if any, on the amount requested pursuant to paragraph (2), including whether such amount would substantially inhibit the Inspector General from performing the duties of the Office of the Inspector General.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 103G the following new item:

''Sec. 103H. Inspector General of the Intelligence Community.''.

(b) PAY OF INSPECTOR GENERAL.—Subparagraph (A) of section 4(a)(3) of the Inspector General Reform Act of 2008 (Public Law 110–409; 5 U.S.C. App. note) is amended by inserting ''the Inspector General of the Intelligence Community,'' after ''basic pay of''.

(c) CONSTRUCTION.—Nothing in the amendment made by subsection (a)(1) shall be construed to alter the duties and responsibilities of the General Counsel of the Office of the Director of National Intelligence. The Counsel to the Inspector General of the Intelligence Community appointed pursuant to section 103H(i) of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as added by subsection (a)(1), shall perform the functions as such Inspector General may prescribe.

(d) REPEAL OF SUPERSEDED AUTHORITY TO ESTABLISH POSITION.—

(1) IN GENERAL.—Section 8K of the Inspector General Act of 1978 (5 U.S.C. App.) shall be repealed on the date that the President nominates the first individual to serve as Inspector General for the Intelligence Community pursuant to section 103H of the National Security Act of 1947, as added by subsection (a).

(2) TRANSITION.—Notwithstanding the repeal of section 8K of the Inspector General Act of 1978 (5 U.S.C. App.) pursuant to paragraph (1), the individual serving as Inspector General pursuant to such section 8K may continue such service until an individual is appointed as the Inspector General of the Intelligence Community, by and with the advice and consent of the Senate, pursuant to such section 103H and assumes the duties of that position.

**SEC. 408. CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.**

(a) ESTABLISHMENT.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.), as amended by section 407 of this Act, is further amended by inserting after section 103H, as added by section 407(a)(1), the following new section:

''CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY

''SEC. 103I. (a) CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.—To assist the Director of National Intelligence in carrying out the responsibilities of the Director under this Act and other applicable provisions of law, there shall be within the Office of the Director of National Intelligence a Chief Financial Officer of the Intelligence Community who shall be appointed by the Director.

''(b) DUTIES AND RESPONSIBILITIES.—Subject to the direction of the Director of National Intelligence, the Chief Financial Officer of the Intelligence Community shall—

''(1) serve as the principal advisor to the Director of National Intelligence and the Principal Deputy Director of National Intelligence on the management and allocation of intelligence community budgetary resources;

''(2) establish and oversee a comprehensive and integrated strategic process for resource management within the intelligence community;

''(3) ensure that the strategic plan of the Director of National Intelligence—

''(A) is based on budgetary constraints as specified in the Future Year Intelligence Plans and Long-term Budget Projections required by this Act; and

''(B) contains specific goals and objectives to support a performance-based budget;

''(4) ensure that—

''(A) current and future major system acquisitions have validated national requirements for meeting the strategic plan of the Director; and

''(B) such requirements are prioritized based on budgetary constraints, as specified in the Future Year Intelligence Plans and the Long-term Intelligence Projections required by this Act;

''(5) prior to the obligation or expenditure of funds for the acquisition of any major system pursuant to a Milestone A or Milestone B decision, determine that such acquisition complies with the requirements of paragraph (4);

''(6) ensure that the architectures of the Director are based on budgetary constraints as specified in the Future Year Intelligence Plans and the Long-term Budget Projections required by this Act;

''(7) coordinate or approve representations made to Congress by the intelligence community regarding National Intelligence Program budgetary resources;

''(8) preside, or assist in presiding, over any mission requirements, acquisition, or architectural board formed within or by the Office of the Director of National Intelligence; and

''(9) perform such other duties as may be prescribed by the Director of National Intelligence or specified by law.

''(c) OTHER LAW.—The Chief Financial Officer of the Intelligence Community shall serve as the Chief Financial Officer of the intelligence community and, to the extent applicable, shall have the duties, responsibilities, and authorities specified in the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat. 2823) and the amendments made by that Act.

''(d) PROHIBITION ON SIMULTANEOUS SERVICE AS OTHER CHIEF FINANCIAL OFFICER.—An individual serving in the position of Chief Financial Officer of the Intelligence Community may not, while so serving, serve as the chief financial officer of any other department or agency, or component thereof, of the United States Government.

''(e) DEFINITIONS.—In this section:

''(1) The term 'major system' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

''(2) The term 'Milestone A' means a decision to enter into concept refinement and technology maturity demonstration pursuant to guidance issued by the Director of National Intelligence.

''(3) The term 'Milestone B' means a decision to enter into system development, integration, and demonstration pursuant to guidance prescribed by the Director of National Intelligence.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 406, is further amended by inserting after the item relating to section 103H, as added by section 407(a)(2) the following new item:

''Sec. 103I. Chief Financial Officer of the Intelligence Community.''.

**SEC. 409. LEADERSHIP AND LOCATION OF CERTAIN OFFICES AND OFFICIALS.**

(a) NATIONAL COUNTER PROLIFERATION CENTER.—Section 119A(a) of the National Security Act of 1947 (50 U.S.C. 404o–1(a)) is amended—

(1) by striking ''(a) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of the National Security Intelligence Reform Act of 2004, the'' and inserting the following:

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—The''; and

(2) by adding at the end the following new paragraphs:

''(2) DIRECTOR.—The head of the National Counter Proliferation Center shall be the Director of the National Counter Proliferation Center, who shall be appointed by the Director of National Intelligence.

''(3) LOCATION.—The National Counter Proliferation Center shall be located within the Office of the Director of National Intelligence.''.

(b) OFFICERS.—Section 103(c) of that Act (50 U.S.C. 403–3(c)) is amended—

(1) by redesignating paragraph (9) as paragraph (14); and

(2) by inserting after paragraph (8) the following new paragraphs:

''(9) The Chief Information Officer of the Intelligence Community.

''(10) The Inspector General of the Intelligence Community.

''(11) The Director of the National Counterterrorism Center.

''(12) The Director of the National Counter Proliferation Center.

''(13) The Chief Financial Officer of the Intelligence Community''.

**SEC. 410. NATIONAL SPACE INTELLIGENCE OFFICE.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

''NATIONAL SPACE INTELLIGENCE OFFICE

''SEC. 119C. (a) ESTABLISHMENT.—There is established within the Office of the Director of National Intelligence a National Space Intelligence Office.

''(b) DIRECTOR OF NATIONAL SPACE INTELLIGENCE OFFICE.—The National Intelligence Officer for Science and Technology, or a successor position designated by the Director of National Intelligence, shall act as the Director of the National Space Intelligence Office.

''(c) MISSIONS.—The National Space Intelligence Office shall have the following missions:

''(1) To coordinate and provide policy direction for the management of space-related intelligence assets.

''(2) To prioritize collection activities consistent with the National Intelligence Collection Priorities framework, or a successor framework or other document designated by the Director of National Intelligence.

''(3) To provide policy direction for programs designed to ensure a sufficient cadre of government and nongovernment personnel in fields relating to space intelligence, including programs to support education, recruitment, hiring, training, and retention of qualified personnel.

''(4) To evaluate independent analytic assessments of threats to classified United States space intelligence systems throughout all phases of the development, acquisition, and operation of such systems.

''(d) ACCESS TO INFORMATION.—The Director of National Intelligence shall ensure that the National Space Intelligence Office has access to all national intelligence information (as appropriate), and such other information (as appropriate and practical), necessary for the Office to carry out the missions of the Office under subsection (c).

''(e) SEPARATE BUDGET ACCOUNT.—The Director of National Intelligence shall include in the National Intelligence Program budget a separate line item for the National Space Intelligence Office.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 119B the following new item:

''Sec. 119C. National Space Intelligence Office.''.

(b) REPORT ON ORGANIZATION OF OFFICE.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Director of the National Space Intelligence Office shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on the organizational structure of the National Space Intelligence Office established by section 119C of the National Security Act of 1947 (as added by subsection (a)).

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The proposed organizational structure of the National Space Intelligence Office.

(B) An identification of key participants in the Office.

(C) A strategic plan for the Office during the 5-year period beginning on the date of the report.

**SEC. 411. PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**

(a) IN GENERAL.—Title VII of the National Security Act of 1947 (50 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

''PROTECTION OF CERTAIN FILES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

''SEC. 706. (a) INAPPLICABILITY OF FOIA TO EXEMPTED OPERATIONAL FILES PROVIDED TO ODNI.—(1) Subject to paragraph (2), the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of a record shall not apply to a record provided to the Office by an element of the intelligence community from the exempted operational files of such element.

''(2) Paragraph (1) shall not apply with respect to a record of the Office that—

''(A) contains information derived or disseminated from an exempted operational file, unless such record is created by the Office for the sole purpose of organizing such exempted operational file for use by the Office;

''(B) is disseminated by the Office to a person other than an officer, employee, or contractor of the Office; or

''(C) is no longer designated as an exempted operational file in accordance with this title.

''(b) EFFECT OF PROVIDING FILES TO ODNI.—Notwithstanding any other provision of this title, an exempted operational file that is provided to the Office by an element of the intelligence community shall not be subject to the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of a record solely because such element provides such exempted operational file to the Office.

''(c) DEFINITIONS.—In this section:

''(1) The term 'exempted operational file' means a file of an element of the intelligence community that, in accordance with this title, is exempted from the provisions of section 552 of title 5, United States Code, that require search, review, publication, or disclosure of such file.

''(2) Except as otherwise specifically provided, the term 'Office' means the Office of the Director of National Intelligence.

''(d) SEARCH AND REVIEW FOR CERTAIN PURPOSES.—Notwithstanding subsection (a) or (b), exempted operational files shall continue to be subject to search and review for information concerning any of the following:

''(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

''(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

''(3) The specific subject matter of an investigation for any impropriety or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity by any of the following:

''(A) The Select Committee on Intelligence of the Senate.

''(B) The Permanent Select Committee on Intelligence of the House of Representatives.

''(C) The Intelligence Oversight Board.

''(D) The Department of Justice.

''(E) The Office.

''(F) The Office of the Inspector General of the Intelligence Community.

''(e) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of National Intelligence shall review the operational files exempted under subsection (a) to determine whether such files, or any portion of such files, may be removed from the category of exempted files.

''(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

''(3) A complainant that alleges that the Director of National Intelligence has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

''(A) Whether the Director has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010 or before the expiration of the 10-year period beginning on the date of the most recent review.

''(B) Whether the Director of National Intelligence, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

''(f) SUPERSEDURE OF OTHER LAWS.—The provisions of this section may not be superseded except by a provision of law that is enacted after the date of the enactment of this section and that specifically cites and repeals or modifies such provisions.

''(g) ALLEGATION; IMPROPER WITHHOLDING OF RECORDS; JUDICIAL REVIEW.—(1) Except as

provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the Office has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

''(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

''(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the Office, such information shall be examined ex parte, in camera by the court.

''(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

''(C)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Office shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted files likely to contain responsive records are records provided to the Office by an element of the intelligence community from the exempted operational files of such element.

''(ii) The court may not order the Office to review the content of any exempted file or files in order to make the demonstration required under clause (i), unless the complainant disputes the Office's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

''(D) In proceedings under subparagraph (C), a party may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

''(E) If the court finds under this subsection that the Office has improperly withheld requested records because of failure to comply with any provision of this section, the court shall order the Office to search and review the appropriate exempted file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this section.

''(F) If at any time following the filing of a complaint pursuant to this paragraph the Office agrees to search the appropriate exempted file or files for the requested records, the court shall dismiss the claim based upon such complaint.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 705 the following new item:

''Sec. 706. Protection of certain files of the Office of the Director of National Intelligence.''.

**SEC. 412. COUNTERINTELLIGENCE INITIATIVES FOR THE INTELLIGENCE COMMUNITY.**

Section 1102 of the National Security Act of 1947 (50 U.S.C. 442a) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2); and

(B) by striking ''(1) In'' and inserting ''In''; and

(2) in subsection (c)—

(A) by striking paragraph (2); and

(B) by striking ''(1) The'' and inserting ''The''.

**SEC. 413. APPLICABILITY OF THE PRIVACY ACT TO THE DIRECTOR OF NATIONAL INTELLIGENCE AND THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**

Subsection (j) of section 552a of title 5, United States Code, is amended—

(1) in paragraph (1), by striking ''or'';

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

''(2) maintained by the Office of the Director of National Intelligence; or''.

**SEC. 414. INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT TO ADVISORY COMMITTEES OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**

(a) IN GENERAL.—Section 4(b) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking ''or'';

(2) in paragraph (2), by striking the period and inserting ''; or''; and

(3) by adding at the end the following new paragraph:

''(3) the Office of the Director of National Intelligence.''.

(b) ANNUAL REPORT.—The Director of National Intelligence and the Director of the Central Intelligence Agency shall each submit to the congressional intelligence committees an annual report on advisory committees created by each such Director. Each report shall include—

(1) a description of each such advisory committee, including the subject matter of the committee; and

(2) a list of members of each such advisory committee.

**SEC. 415. MEMBERSHIP OF THE DIRECTOR OF NATIONAL INTELLIGENCE ON THE TRANSPORTATION SECURITY OVERSIGHT BOARD.**

Subparagraph (F) of section 115(b)(1) of title 49, United States Code, is amended to read as follows:

''(F) The Director of National Intelligence, or the Director's designee.''.

**SEC. 416. REPEAL OF CERTAIN AUTHORITIES RELATING TO THE OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.**

(a) REPEAL OF CERTAIN AUTHORITIES.—Section 904 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402c) is amended—

(1) by striking subsections (d), (h), (i), and (j);

(2) by redesignating subsections (e), (f), (g), (k), (l), and (m) as subsections (d), (e), (f), (g), (h), and (i), respectively; and

(3) in subsection (f), as redesignated by paragraph (2), by striking paragraphs (3) and (4).

(b) CONFORMING AMENDMENTS.—Such section 904 is further amended—

(1) in subsection (d), as redesignated by subsection (a)(2) of this section, by striking ''subsection (f)'' each place it appears in paragraphs (1) and (2) and inserting ''subsection (e)''; and

(2) in subsection (e), as so redesignated—

(A) in paragraph (1), by striking ''subsection (e)(1)'' and inserting ''subsection (d)(1)''; and

(B) in paragraph (2), by striking ''subsection (e)(2)'' and inserting ''subsection (d)(2)''.

**SEC. 417. MISUSE OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE NAME, INITIALS, OR SEAL.**

(a) PROHIBITED ACTS.—No person may, except with the written permission of the Director of National Intelligence, or a designee of the Director, knowingly use the words ''Office of the Director of National Intelligence'', the initials ''ODNI'', the seal of the Office of the Director of National Intelligence, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Director of National Intelligence.

(b) INJUNCTION.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

**Subtitle B—Central Intelligence Agency**

**SEC. 421. ADDITIONAL FUNCTIONS AND AUTHORITIES FOR PROTECTIVE PERSONNEL OF THE CENTRAL INTELLIGENCE AGENCY.**

Section 5(a)(4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(4)) is amended—

(1) by striking ''and the protection'' and inserting ''the protection''; and

(2) by inserting before the semicolon the following: '', and the protection of the Director of National Intelligence and such personnel of the Office of the Director of National Intelligence as the Director of National Intelligence may designate''.

**SEC. 422. APPEALS FROM DECISIONS INVOLVING CONTRACTS OF THE CENTRAL INTELLIGENCE AGENCY.**

Section 8(d) of the Contract Disputes Act of 1978 (41 U.S.C. 607(d)) is amended by adding at the end the following new sentence: ''Notwithstanding any other provision of this section and any other provision of law, an appeal from a decision of a contracting officer of the Central Intelligence Agency relative to a contract made by that agency may be filed with whichever of the Armed Services Board of Contract Appeals or the Civilian Board of Contract Appeals is specified in the contract as the Board to which such an appeal may be made; and the Board so specified shall have jurisdiction to decide that appeal.''.

**SEC. 423. DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.**

(a) ESTABLISHMENT AND DUTIES OF THE POSITION OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—

(1) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding after section 104A the following:

**''SEC. 104B. DEPUTY DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.**

''(a) DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—There is a Deputy Director of the Central Intelligence Agency who shall be appointed by the President, by and with the consent of the Senate.

''(b) DUTIES OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE AGENCY.—The Deputy Director of the Central Intelligence Agency shall—

''(1) assist the Director of the Central Intelligence Agency in carrying out the duties and responsibilities of the Director of the Central Intelligence Agency; and

''(2) act for, and exercise the powers of, the Director of the Central Intelligence Agency during the absence or disability of the Director of the Central Intelligence Agency, or

during a vacancy in the position of Director of the Central Intelligence Agency.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 104A the following:

''Sec. 104B. Deputy Director of the Central Intelligence Agency.''.

(b) EXECUTIVE SCHEDULE III.—Section 5314 of Title 5, United States Code, is amended by striking the item relating to the Deputy Directors of the Central Intelligence Agency (2) and inserting the following:

''Deputy Director of the Central Intelligence Agency.''.

(c) EFFECTIVE DATE AND APPLICABILITY.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply upon the earlier of—

(1) the date of the appointment by the President of an individual to serve as Deputy Director of the Central Intelligence Agency, except that the individual administratively performing the duties of the Deputy Director of the Central Intelligence Agency as of the date of the enactment of this Act may continue to perform such duties until the individual appointed to the position of Deputy Director of the Central Intelligence Agency, by and with the advice and consent of the Senate, assumes the duties of such position; or

(2) the date of the cessation of the performance of the duties of Deputy Director of the Central Intelligence Agency by the individual administratively performing such duties as of the date of the enactment of this Act.

**SEC. 424. AUTHORITY TO AUTHORIZE TRAVEL ON A COMMON CARRIER.**

Subsection (b) of section 116 of the National Security Act of 1947 (50 U.S.C. 404k) is amended by striking the period at the end and inserting '', who may delegate such authority to other appropriate officials of the Central Intelligence Agency.''.

**SEC. 425. INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.**

(a) APPOINTMENT AND QUALIFICATIONS OF THE INSPECTOR GENERAL.—Paragraph (1) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)) is amended by striking the second and third sentence and inserting ''This appointment shall be made without regard to political affiliation and shall be on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigation. Such appointment shall also be made on the basis of compliance with the security standards of the Agency and prior experience in the field of foreign intelligence.''.

(b) REMOVAL OF THE INSPECTOR GENERAL.—Paragraph (6) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(b)) is amended—

(1) by striking ''immediately''; and

(2) by striking the period at the end and inserting ''not later than 30 days prior to the effective date of such removal.''.

(c) APPLICATION OF SEMIANNUAL REPORTING REQUIREMENTS WITH RESPECT TO REVIEW REPORTS.—Paragraph (1) of section 17(d) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)) is amended in the matter preceding subparagraph (A) by inserting ''review,'' after ''investigation,''.

(d) PROTECTION AGAINST REPRISALS.—Subparagraph (B) of section 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(3)) is amended by inserting ''or providing such information'' after ''making such complaint''.

(e) INSPECTOR GENERAL SUBPOENA POWER.—Subparagraph (A) of section 17(e)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(e)(5)) is amended by inserting ''in any medium (including electronically stored information or any tangible thing)'' after ''other data''.

(f) OTHER ADMINISTRATIVE AUTHORITIES.—

(1) IN GENERAL.—Subsection (e) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—

(A) by redesignating paragraph (8) as subparagraph (9);

(B) in paragraph (9), as so redesignated—

(i) by striking ''Subject to the concurrence of the Director, the'' and inserting ''The''; and

(ii) by adding at the end ''Consistent with budgetary and personnel resources allocated by the Director, the Inspector General has final approval of—

''(A) the selection of internal and external candidates for employment with the Office of Inspector General; and

''(B) all other personnel decisions concerning personnel permanently assigned to the Office of Inspector General, including selection and appointment to the Senior Intelligence Service, but excluding all security based determinations that are not within the authority of a head of other Central Intelligence Agency offices.''; and

(C) by inserting after paragraph (7) the following:

''(8) The Inspector General shall—

''(A) appoint a Counsel to the Inspector General who shall report to the Inspector General; or

''(B) obtain the services of a counsel appointed by and directly reporting to another Inspector General or the Council of the Inspectors General on Integrity and Efficiency on a reimbursable basis.''.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1)(C) shall be construed to alter the duties and responsibilities of the General Counsel of the Central Intelligence Agency. The Counsel to the Inspector General of the Central Intelligence Agency appointed pursuant to section 17(e)(8) of the Central Intelligence Agency Act of 1949, as added by such paragraph, shall perform the functions as such Inspector General may prescribe.

**SEC. 426. BUDGET OF THE INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY.**

Subsection (f) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—

(1) by inserting ''(1)'' before ''Beginning''; and

(2) by adding at the end the following:

''(2) For each fiscal year, the Inspector General shall transmit a budget estimate and request through the Director to the Director of National Intelligence that specifies for such fiscal year—

''(A) the aggregate amount requested for the operations of the Inspector General;

''(B) the amount requested for all training requirements of the Inspector General, including a certification from the Inspector General that the amount requested is sufficient to fund all training requirements for the Office; and

''(C) the amount requested to support the Council of the Inspectors General on Integrity and Efficiency, including a justification of such amount.

''(3) In transmitting a proposed budget to the President for a fiscal year, the Director of National Intelligence shall include for such fiscal year—

''(A) the aggregate amount requested for the Inspector General of the Central Intelligence Agency;

''(B) the amount requested for Inspector General for training;

''(C) the amounts requested to support of the Council of the Inspectors General on Integrity and Efficiency; and

''(D) the comments of the Inspector General, if any, with respect to the proposal.

''(4) The Director of National Intelligence shall submit to the Committee on Appropriations and the Select Committee on Intelligence of the Senate and the Committee on Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives for each fiscal year—

''(A) a separate statement of the budget estimate transmitted pursuant to paragraph (2);

''(B) the amount requested by the Director of National Intelligence for the Inspector General pursuant to paragraph (3);

''(C) the amount requested by the Director of National Intelligence for training for personnel of the Office;

''(D) the amount requested by the Director of National Intelligence for support for the Council of the Inspectors General on Integrity and Efficiency; and

''(E) the comments of the Inspector General, if any, on the amount requested pursuant to paragraph (3), including whether such amount would substantially inhibit the Inspector General from performing the duties of the Office.''.

**SEC. 427. PUBLIC AVAILABILITY OF UNCLASSIFIED VERSIONS OF CERTAIN INTELLIGENCE PRODUCTS.**

The Director of the Central Intelligence Agency shall make publicly available an unclassified version of any memoranda or finished intelligence products assessing the information gained from high-value detainee reporting dated April 3, 2003, July 15, 2004, March 2, 2005, and June 1, 2005.

**Subtitle C—Defense Intelligence Components**

**SEC. 431. INSPECTOR GENERAL MATTERS.**

(a) COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.—Subsection (a)(2) of section 8G of the Inspector General Act of 1978 (5 U.S.C. App. 8G) is amended—

(1) by inserting ''the Defense Intelligence Agency,'' after ''the Corporation for Public Broadcasting,'';

(2) by inserting ''the National Geospatial-Intelligence Agency,'' after ''the National Endowment for the Humanities,''; and

(3) by inserting ''the National Reconnaissance Office, the National Security Agency,'' after ''the National Labor Relations Board,''.

(b) CERTAIN DESIGNATIONS UNDER INSPECTOR GENERAL ACT OF 1978.—Subsection (a) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App. 8H) is amended by adding at the end the following new paragraph:

''(3) The Inspectors General of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the National Security Agency shall be designees of the Inspector General of the Department of Defense for purposes of this section.''.

(c) POWER OF HEADS OF ELEMENTS OVER INVESTIGATIONS.—Subsection (d) of section 8G of such Act (5 U.S.C. App. 8G) is amended—

(1) by inserting ''(1)'' after ''(d)'';

(2) in the second sentence of paragraph (1), as designated by paragraph (1) of this subsection, by striking ''The head'' and inserting ''Except as provided in paragraph (2), the head''; and

(3) by adding at the end the following new paragraph:

''(2)(A) The Secretary of Defense, in consultation with the Director of National Intelligence, may prohibit the Inspector General of an element of the intelligence community specified in subparagraph (D) from initiating, carrying out, or completing any audit or investigation if the Secretary determines that the prohibition is necessary to

protect vital national security interests of the United States.

''(B) If the Secretary exercises the authority under subparagraph (A), the Secretary shall submit to the committees of Congress specified in subparagraph (E) an appropriately classified statement of the reasons for the exercise of the authority not later than 7 days after the exercise of the authority.

''(C) At the same time the Secretary submits under subparagraph (B) a statement on the exercise of the authority in subparagraph (A) to the committees of Congress specified in subparagraph (E), the Secretary shall notify the Inspector General of such element of the submittal of such statement and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such statement. The Inspector General may submit to such committees of Congress any comments on a notice or statement received by the Inspector General under this subparagraph that the Inspector General considers appropriate.

''(D) The elements of the intelligence community specified in this subparagraph are as follows:

''(i) The Defense Intelligence Agency.

''(ii) The National Geospatial-Intelligence Agency.

''(iii) The National Reconnaissance Office.

''(iv) The National Security Agency.

''(E) The committees of Congress specified in this subparagraph are—

''(i) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

''(ii) the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.''.

**SEC. 432. CONFIRMATION OF APPOINTMENT OF HEADS OF CERTAIN COMPONENTS OF THE INTELLIGENCE COMMUNITY.**

(a) DIRECTOR OF NATIONAL SECURITY AGENCY.—The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting after the first section the following new section:

''SEC. 2. (a) There is a Director of the National Security Agency.

''(b) The Director of the National Security Agency shall be appointed by the President, by and with the advice and consent of the Senate.

''(c) The Director of the National Security Agency shall be the head of the National Security Agency and shall discharge such functions and duties as are provided by this Act or otherwise by law.''.

(b) DIRECTOR OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.—Section 441(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2) The Director of the National Geospatial-Intelligence Agency shall be appointed by the President, by and with the advice and consent of the Senate.''.

(c) DIRECTOR OF NATIONAL RECONNAISSANCE OFFICE.—The Director of the National Reconnaissance Office shall be appointed by the President, by and with the advice and consent of the Senate.

(d) POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—

(1) DESIGNATION OF POSITIONS.—The President may designate any of the positions referred to in paragraph (2) as positions of importance and responsibility under section 601 of title 10, United States Code.

(2) COVERED POSITIONS.—The positions referred to in this paragraph are as follows:

(A) The Director of the National Security Agency.

(B) The Director of the National Geospatial-Intelligence Agency.

(C) The Director of the National Reconnaissance Office.

(e) EFFECTIVE DATE AND APPLICABILITY.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b), and subsection (c), shall take effect on the date of the enactment of this Act and shall apply upon the earlier of—

(A) the date of the nomination by the President of an individual to serve in the position concerned, except that the individual serving in such position as of the date of the enactment of this Act may continue to perform such duties after such date of nomination and until the individual appointed to such position, by and with the advice and consent of the Senate, assumes the duties of such position; or

(B) the date of the cessation of the performance of the duties of such position by the individual performing such duties as of the date of the enactment of this Act.

(2) POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—Subsection (d) shall take effect on the date of the enactment of this Act.

**SEC. 433. CLARIFICATION OF NATIONAL SECURITY MISSIONS OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY FOR ANALYSIS AND DISSEMINATION OF CERTAIN INTELLIGENCE INFORMATION.**

Section 442(a) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2)(A) As directed by the Director of National Intelligence, the National Geospatial-Intelligence Agency shall also develop a system to facilitate the analysis, dissemination, and incorporation of likenesses, videos, and presentations produced by ground-based platforms, including handheld or clandestine photography taken by or on behalf of human intelligence collection organizations or available as open-source information, into the National System for Geospatial Intelligence.

''(B) The authority provided by this paragraph does not include authority for the National Geospatial-Intelligence Agency to manage tasking of handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.''; and

(3) in paragraph (3), as so redesignated, by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)''.

**SEC. 434. DEFENSE INTELLIGENCE AGENCY COUNTERINTELLIGENCE AND EXPENDITURES.**

Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended—

(1) in subsection (b)(5), by inserting ''and counterintelligence'' after ''human intelligence'';

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

''(c) EXPENDITURE OF FUNDS BY THE DEFENSE INTELLIGENCE AGENCY.—(1) The amounts made available to the Director of the Defense Intelligence Agency for human intelligence and counterintelligence activities may be expended for objects of a confidential, extraordinary, or emergency nature, without regard to the provisions of law or regulation relating to the expenditure of Government funds, if accounted for by a certificate made by Director of the Defense Intelligence Agency. Each such certificate shall be deemed a sufficient voucher for the amount certified.

''(2) Not later than December 1 of each year, the Director of the Defense Intelligence Agency shall submit to the congressional intelligence committees a report on any expenditures made during the preceding fiscal year pursuant to the authority described in paragraph (1).''.

**Subtitle D—Other Elements**

**SEC. 441. CODIFICATION OF ADDITIONAL ELEMENTS OF THE INTELLIGENCE COMMUNITY.**

Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) is amended—

(1) in subparagraph (H)—

(A) by inserting ''the Coast Guard,'' after ''the Marine Corps,''; and

(B) by inserting ''the Drug Enforcement Administration,'' after ''the Federal Bureau of Investigation,''; and

(2) in subparagraph (K), by striking '', including the Office of Intelligence of the Coast Guard''.

**SEC. 442. AUTHORIZATION OF APPROPRIATIONS FOR COAST GUARD NATIONAL TACTICAL INTEGRATION OFFICE.**

Title 14, United States Code, is amended—

(1) in paragraph (4) of section 93(a), by striking ''function'' and inserting ''function, including research, development, test, or evaluation related to intelligence systems and capabilities,''; and

(2) in paragraph (4) of section 662, by inserting ''intelligence systems and capabilities or'' after ''related to''.

**SEC. 443. RETENTION AND RELOCATION BONUSES FOR THE FEDERAL BUREAU OF INVESTIGATION.**

Section 5759 of title 5 of the United States Code, is amended—

(1) in subsection (a)(2), by striking ''is transferred to a different geographic area with a higher cost of living'' and inserting ''is subject to a mobility agreement and is transferred to a position in a different geographical area in which there is a shortage of critical skills'';

(2) in subsection (b)(2), by striking the period at the end and inserting '', including requirements for a bonus recipient's repayment of a bonus in circumstances determined by the Director of the Federal Bureau of Investigation.'';

(3) in subsection (c), by striking ''basic pay.'' and inserting ''annual rate of basic pay. The bonus may be paid in a lump sum of installments linked to completion of periods of service.'';

(4) in subsection (d), by striking ''retention bonus'' and inserting ''bonus paid under this section''; and

(5) by striking subsection (e).

**SEC. 444. EXTENDING THE AUTHORITY OF THE FEDERAL BUREAU OF INVESTIGATION TO WAIVE MANDATORY RETIREMENT PROVISIONS.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Subsection (b) of section 8335 of title 5, United States Code, is amended—

(1) in the paragraph (2) enacted by section 112(a)(2) of the Department of Justice Appropriations Act, 2005 (title I of division B of Public Law 108–447; 118 Stat. 2868) is amended by striking ''2009'' and inserting ''2011''; and

(2) by striking the paragraph (2) enacted by section 2005(a)(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3704).

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Subsection (b) of section 8425 of title 5, United States Code, is amended—

(1) in the paragraph (2) enacted by section 112(b)(2) of the Department of Justice Appropriations Act, 2005 (title I of division B of Public Law 108–447; 118 Stat. 2868) is amended by striking ''2009'' and inserting ''2011''; and

(2) by striking the paragraph (2) enacted by section 2005(b)(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3704).

**SEC. 445. REPORT AND ASSESSMENTS ON TRANSFORMATION OF THE INTELLIGENCE CAPABILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.**

(a) REPORT.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation, in consultation with the Director of National Intelligence, shall submit to the congressional intelligence committees, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report describing—

(A) a long-term vision for the intelligence capabilities of the Bureau's National Security Branch;

(B) a strategic plan for the National Security Branch; and

(C) the progress made in advancing the capabilities of the National Security Branch.

(2) CONTENT.—The report required by paragraph (1) shall include—

(A) a description of the direction, strategy, and goals for improving the intelligence capabilities of the National Security Branch;

(B) a description of the intelligence and national security capabilities of the National Security Branch that will be fully functional within the 5-year period beginning on the date the report is submitted;

(C) a description—

(i) of the internal reforms that were carried out at the National Security Branch during the 2-year period ending on the date the report is submitted; and

(ii) of the manner in which such reforms have advanced the capabilities of the National Security Branch;

(D) an assessment of the effectiveness of the National Security Branch in performing tasks that are critical to the effective functioning of the National Security Branch as an intelligence agency, including—

(i) human intelligence collection, both within and outside the parameters of an existing case file or ongoing investigation, in a manner that protects civil liberties;

(ii) intelligence analysis, including the ability of the National Security Branch to produce, and provide policy-makers with, information on national security threats to the United States;

(iii) management, including the ability of the National Security Branch to manage and develop human capital and implement an organizational structure that supports the Branch's objectives and strategies;

(iv) integration of the National Security Branch into the intelligence community, including an ability to robustly share intelligence and effectively communicate and operate with appropriate Federal, State, local, and tribal partners;

(v) implementation of an infrastructure that supports the national security and intelligence missions of the National Security Branch, including proper information technology and facilities; and

(vi) reformation of culture of the National Security Branch, including its integration of intelligence analysts and other professional staff into intelligence collection operations and its success in ensuring that intelligence and threat information drive its operations; and

(E) performance metrics and specific annual timetables for advancing the performance of the tasks referred to in clauses (i) through (vi) of subparagraph (D) and a description of the activities being undertaken to ensure that the National Security Branch's performance on such tasks improves.

(b) ANNUAL ASSESSMENTS.—

(1) REQUIREMENT FOR ASSESSMENTS.—Not later than 180 days after the date on which the report required by subsection (a)(1) is submitted, and annually thereafter for each of the following 5 years, the Director of National Intelligence, in consultation with the Director of the Federal Bureau of Investigation, shall submit to the congressional intelligence committees an assessment of the progress of the National Security Branch in performing the tasks referred to in clauses (i) through (vi) of subsection (a)(2)(D) in comparison to its performance of such tasks during previous years.

(2) CONSIDERATIONS.—In conducting each assessment required by paragraph (1), the Director of National Intelligence—

(A) shall use the performance metrics and specific annual timetables for accomplishing such tasks referred to in subsection (a)(2)(E); and

(B) may request the assistance of any expert that the Director considers appropriate, including an inspector general of an appropriate agency or department.

## TITLE V—REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE

**SEC. 501. REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.**

(a) REORGANIZATION OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.—

(1) IN GENERAL.—Subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567; 22 U.S.C. 7301 et seq.) is amended by striking sections 321, 322, 323, and 324, and inserting the following:

**"SEC. 321. DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.**

''(a) REORGANIZATION.—The Diplomatic Telecommunications Service (hereinafter in this subtitle referred to as 'DTS') shall be reorganized in accordance with this subtitle.

''(b) IN GENERAL.—The DTS encompasses the Diplomatic Telecommunications Service Program Office (hereinafter in this subtitle referred to as 'DTS–PO') and the DTS Network. The DTS Network is a worldwide telecommunications network supporting all United States Government agencies and departments operating from diplomatic and consular facilities abroad.

''(c) PURPOSES.—The purpose and duties of DTS–PO is to implement a program for the establishment and maintenance of a DTS Network capable of providing multiple levels of service to meet the wide-ranging needs of all United States Government agencies and departments operating from diplomatic and consular facilities abroad, including national security needs for secure, reliable and robust communications capabilities.

**"SEC. 322. ESTABLISHMENT OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE GOVERNANCE BOARD.**

''(a) GOVERNANCE BOARD.—

''(1) ESTABLISHMENT.—There is hereby established the Diplomatic Telecommunications Service Governance Board (hereinafter in this subtitle referred to as the 'Governance Board') for the purpose of directing and overseeing the activities and performance of the DTS Program Office. The heads of the departments and agencies, designated by the Director of the Office of Management and Budget from among the departments and agencies that use the DTS Network, shall appoint the members of the Governance Board from the personnel of those departments and agencies so designated.

''(2) DESIGNATION OF AN EXECUTIVE AGENT.—The Director of the Office of Management and Budget shall also designate, from among the departments and agencies that use the DTS Network, the department or agency which shall be the DTS–PO Executive Agent.

''(3) REQUIREMENT FOR IMPLEMENTING ARRANGEMENTS.—Subject to the requirements of this subtitle, the Governance Board shall determine the written implementing arrangements and other relevant and appropriate governance processes and procedures to manage, oversee, resource or otherwise administer DTS–PO. Such implementing arrangements may be classified if appropriate in accordance with criteria established by applicable law or Executive Orders.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—

''(A) The Governance Board shall include voting members and nonvoting members.

''(B) The voting members shall consist of a Chair, who shall be designated by the Director of the Office of Management and Budget, and four other members from the departments and agencies that use the DTS Network.

''(C) The non-voting members shall be representative of DTS customer organizations and shall act in an advisory capacity.

''(c) CHAIR DUTIES AND AUTHORITIES.—The Governance Board Chair shall preside over all meetings and deliberations of the Governance Board and provide its Secretariat functions. The Governance Board Chair shall propose bylaws governing the operation of the Governance Board.

''(d) QUORUM, DECISIONS, MEETINGS.—A quorum of the Governance Board shall consist of the presence of the Chair and four voting members. The decisions of the Governance Board shall require a three-fifths majority of the voting membership. Meetings will be convened at least four times each year to carry out its functions. The Chair or any voting member may convene a meeting of the Governance Board.

''(e) GOVERNANCE BOARD DUTIES AND AUTHORITIES.—The Governance Board shall have the following duties and authorities with respect to DTS–PO, in addition to any other duties and authorities granted to the Board pursuant to law:

''(1) To approve and monitor DTS–PO's plans, services, priorities, policies, and pricing methodology for bandwidth costs and customer-driven projects.

''(2) To recommend to the DTS–PO Executive Agent the Governance Board's approval, disapproval, or modification of DTS–PO's annual budget requests.

''(3) To review DTS–PO's performance against approved plans, its management activities and internal controls.

''(4) To require from DTS–PO any plans, reports, documents and records the Governance Board considers necessary to perform its oversight responsibilities.

''(5) To conduct and evaluate independent audits of DTS–PO.

''(6) To approve or disapprove the Executive Agent's nomination of the Director of DTS–PO with a three-fifths majority vote of the Governance Board.

''(7) To recommend to the Executive Agent the replacement of the Director of DTS–PO with a three-fifths majority vote of the Governance Board.

''(f) NATIONAL SECURITY INTERESTS.—The Governance Board shall ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization.

**"SEC. 323. FUNDING OF THE DIPLOMATIC TELECOMMUNICATION SERVICE.**

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the operations, maintenance, development, enhancement, modernization, and investment costs of the DTS Network and DTS–PO. Funds appropriated for allocation to DTS–PO shall be made available to DTS–PO for a period of two fiscal years.

''(b) CUSTOMER FEES.—DTS–PO shall charge customers for only those bandwidth costs attributable to the agency or department and for specific customer-driven projects, as set forth in section 322(e)(1), for which amounts have not been appropriated for allocation to DTS–PO. DTS–PO is authorized to directly receive customer payments and to invoice customers for the fees under this section either in advance of, or upon or after, providing the bandwidth or performing the specific customer-driven projects. Such funds received from DTS customers shall be made available to DTS–PO for a period of two fiscal years.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1 of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567) is amended by striking the items relating to sections 321, 322, 323, and 324 and inserting the following:

''Sec. 321. Diplomatic Telecommunications Service Program Office.
''Sec. 322. Establishment of the Diplomatic Telecommunications Service Governance Board.
''Sec. 323. Funding of the Diplomatic Telecommunication Service.''.

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF SUSPENSION OF REORGANIZATION.—The Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108; 22 U.S.C. 7301 note) is amended by striking section 311.

(2) REPEAL OF REFORM.—The Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 ((as enacted into law by section 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–405)) is amended by striking section 305.

(3) REPEAL OF REPORTING REQUIREMENTS.—Section 507(b) of the National Security Act of 1947 (50 U.S.C. 415b(b)) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

## TITLE VI—FOREIGN INTELLIGENCE AND INFORMATION COMMISSION ACT

**SEC. 601. SHORT TITLE.**

This title may be cited as the ''Foreign Intelligence and Information Commission Act''.

**SEC. 602. DEFINITIONS.**

In this title:

(1) 2005 NATIONAL INTELLIGENCE STRATEGY.—The term ''2005 National Intelligence Strategy'' means the National Intelligence Strategy of the United States of America released by the Director of National Intelligence on October 26, 2005.

(2) 2006 ANNUAL REPORT OF THE UNITED STATES INTELLIGENCE COMMUNITY AND 2006 ANNUAL REPORT.—The terms ''2006 Annual Report of the United States Intelligence Community'' and ''2006 Annual Report'' mean the 2006 Annual Report of the United States Intelligence Community released by the Director of National Intelligence in February 2007.

(3) COMMISSION.—The term ''Commission'' means the Foreign Intelligence and Information Commission established in section 604(a).

(4) FOREIGN INTELLIGENCE, INTELLIGENCE.—The terms ''foreign intelligence'' and ''intelligence'' have the meaning given those terms in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

(5) INFORMATION.—The term ''information'' includes information of relevance to the foreign policy of the United States collected and conveyed through diplomatic reporting and other reporting by personnel of the Government of the United States who are not employed by an element of the intelligence community, including public and open-source information.

(6) STRATEGIC PLAN OF THE DEPARTMENT OF STATE.—The term ''Strategic Plan of the Department of State'' means the Strategic Plan for Fiscal Years 2007–2012 of the Department of State and the United States Agency for International Development revised on May 7, 2007.

**SEC. 603. FINDINGS.**

Congress makes the following findings:

(1) Accurate, timely, and comprehensive foreign intelligence and information are critical to the national security of United States and the furtherance of the foreign policy goals of the United States.

(2) It is in the national security and foreign policy interest of the United States to ensure the global deployment of personnel of the Government of the United States who are responsible for collecting and reporting foreign intelligence and information, including personnel from the intelligence community, the Department of State, and other agencies and departments of the Government of the United States, and that adequate resources are committed to effect such collection and reporting.

(3) The 2005 National Intelligence Strategy and the 2006 Annual Report of the United States Intelligence Community identified 5 major missions of the intelligence community to support the national security requirements of the United States, the first 2 of which, defeating terrorism and preventing and countering the spread of weapons of mass destruction, are global and transnational in nature.

(4) The third major mission identified by the 2005 National Intelligence Strategy and the 2006 Annual Report, bolstering the growth of democracy and sustaining peaceful democratic states, requires a global commitment of collection, reporting, and analytical capabilities.

(5) The 2005 National Intelligence Strategy and the 2006 Annual Report identify as a major mission the need to ''anticipate developments of strategic concern and identify opportunities as well as vulnerabilities for decision makers''.

(6) The 2006 Annual Report provides the following:

(A) ''In a world in which developments in distant reaches of the globe can quickly affect American citizens and interests at home and abroad, the Intelligence Community must alert policy makers to problems before they escalate and provide insights into their causes and effects. Analysis must do more than just describe what is happening and why; it must identify a range of opportunities for (and likely consequences of) diplomatic, military, law enforcement, economic, financial, or homeland security action. To support policymakers, the Intelligence Community should develop, sustain, and maintain access to expertise on every region, every transnational security issue, and every threat to the American people.''.

(B) ''We still need to re-balance, integrate, and optimize collection capabilities to meet current and future customer and analytic priorities. Collection is . . . what gives the [Intelligence Community] its 'competitive advantage' in protecting the United States and its interests.''.

(C) ''One challenge to improving the coverage of emerging and strategic issues across the Intelligence Community has been the diversion of resources to current crisis support . . .''.

(D) ''Collection against terrorists in places like Iraq and Afghanistan took a substantial share of the [Intelligence Community's] resources and efforts in FY 2006.''.

(E) ''With so many [Intelligence Community] resources dedicated to the War on Terror and WMD programs in closed regimes, the [Intelligence] Community's collection efforts still have to devote significant attention to potential or emerging threats of strategic consequence.''.

(7) On January 23, 2007, the Deputy Director of National Intelligence for Collection testified to the Select Committee on Intelligence of the Senate that there is a ''need to get the Intelligence Community back to what I grew up calling global reach'', stating that ''we don't have that today''. She further testified that ''our challenge is . . . with [Congress] help [to get back] to a place where we can do global reach, and pay attention to places that we are not.''.

(8) On February 14, 2008, the Director of National Intelligence testified to the Select Committee on Intelligence of the Senate that ''certainly current crisis support takes a disproportionate share'' of intelligence resources over emerging and strategic issues.

(9) In responses to questions posed by the Select Committee on Intelligence of the Senate in advance of the February 5, 2009 hearing on the nomination of Leon Panetta to be Director of the Central Intelligence Agency, Mr. Panetta stated that ''I am also concerned that we have not devoted sufficient resources to a broader set of national intelligence challenges – such as Russia, China, the global economic downturn, as well as unstable and weak governments in places such as Africa and Latin America.''.

(10) On February 12, 2009, the Director of National Intelligence testified to the Select Committee on Intelligence of the Senate that ''I'd say the most significant gaps are the areas that are not traditional state threats, that we have not figured out the right way to collect information and we have not grown the analysts to do it. . .. We're not as good with non-state actors.''.

(11) On March 26, 2009, the Director of National Intelligence stated that ''We re-evaluate that National Intelligence Priority Framework formally ever six months and informally, as we have. And its quite remarkable, if you – you know those time-lapse pictures where things change? If you showed a time-lapse picture of that National Intelligence Priority Framework, you'd see, sort of, colors shifting over time as things came up, in terms of their threat or in terms of an opportunity that they – so I just, I think it's a mistake to tie us down to, this is my important priority. There are enduring things we have to spend a lot of time on because you can't instantly generate intelligence about a country that's very good at keeping its secrets that you know is going to be a factor for a long time. And we have to work on those – we have to work on those every time. We have to keep an excellent baseline understanding of what's going on in the world, but then we need to be able to flex.''.

(12) The National Commission on Terrorist Attacks Upon the United States (hereinafter referred to as the ''9/11 Commission'') reported that ''To find sanctuary, terrorist organizations have fled to some of the least governed, most lawless places in the world. The intelligence community has prepared a world map that highlights possible terrorist havens, using no secret intelligence – just indicating areas that combine rugged terrain, weak governance, room to hide or receive supplies, and low population density with a town or city near enough to allow necessary interaction with the outside world. Large areas scattered around the world meet these criteria.''.

(13) The 9/11 Commission recommended that the ''U.S. government must identify and prioritize actual or potential terrorist sanctuaries. For each, it should have a realistic strategy to keep possible terrorists insecure and on the run, using all elements of national power. We should reach out, listen to,

and work with other countries that can help.''.

(14) On May 6, 2008, the Acting Director of the National Counterterrorism Center testified to the Select Committee on Intelligence of the Senate that ''I wish I had more resources to dedicate to longer-term threats, absolutely,'' that ''much of the information about the instability that can lead to safe havens or ideological radicalization comes not from covert collection but from open collection, best done by Foreign Service officers,'' and that there should be ways to direct resources toward whoever is best positioned to learn about safe-haven conditions.

(15) On November 1, 2005, the Director of National Intelligence Open Source Center was established with functions that ''include collection, analysis and research, training, and information technology management to facilitate government-wide access and use'' of openly available information.

(16) The Strategic Plan of the Department of State provides as a strategic goal that ''Our diplomatic and development activities will reduce the threat or impact of violent conflict by developing early warning . . . capability.''.

(17) On January 22, 2009, James Steinberg, a nominee to be Deputy Secretary of State, testified to the Committee on Foreign Relations of the Senate that ''if we're going to be effective in this move towards smart power, then we have to understand how we reprioritize our resources to be able to achieve that. . . If we only think about the crisis of the moment, then we're not prepared as new challenges emerge. And we've seen this time and time again, that issues that were not immediately on the radar screen don't get the attention they deserve. . .. So the idea of looking forward and trying to figure out over the long term where our priorities need to be, how do we anticipate some of these challenges, and then judge how we have sort of assigned resources to take care of not only those current needs but also those long-term challenges I think has to be very important and part of a strategic planning strategy. . . although we have a very strong intelligence community, that there is a tremendous resource of people who've lived and worked out in the countries that we're dealing with and that, for a variety of reasons, the intelligence community is not always the best equipped to do that. They bring their own special skills. But the Foreign Service officers, and also people from outside the government, are enormous sources of information and value. And we need to find better ways, in my judgment, to have more contact with people in the private sector, from the NGOs, from the business community, from universities and the like, as part of our being able to touch and feel what's going on the ground.''.

(18) On January 22, 2009, Jacob Lew, a nominee to be Deputy Secretary of State, testified to the Committee on Foreign Relations of the Senate that ''I believe strongly that resources have to follow priorities. The decision of where we need to be and what kinds of skills we need have to fit into a comprehensive strategy. . .. We need to work with our other Cabinet agency partners. There are 20 government agencies that have resources that work in or through our embassies. We don't need to recreate the wheel; we need to cooperate with each other and make sure that we have enough Foreign Service, civil service and locally engaged staff so that we can effectively coordinate the efforts that the United States puts on the ground. I think that it all begins with the strategic planning process. If we don't have a clear vision of what we need and what we want, were not going to be able to make the right resource allocation decisions. And we have to be able to look beyond this week, next week, or even next year. . .. We need to reach not just into the building but all the way into the field and make it clear that we have every intention of bringing the resources of the State Department to bear as we deal with these kinds of problems and challenges abroad, that we have knowledge in our embassies, in our consulates, about a range of issues, not just political issues — economic issues, scientific issues, cultural issues — that give us the broadest understanding of what's going on in an increasingly global world.''.

(19) The Legal Attache offices and sub-offices of the Federal Bureau of Investigation are currently located in 75 cities around the world, providing coverage for more than 200 countries, territories, and islands.

(20) On October 4, 2007, Thomas V. Fuentes, Assistant Director of the Federal Bureau of Investigation for Office of International Operations, testified to the Subcommittee on Border, Maritime, and Global Counterterrorism of the Committee on Homeland Security of the House of Representatives that the ''core mission'' of the Legal Attache offices ''is to establish and maintain liaison with principal law enforcement and security services in designated foreign countries. . . enabl[ing] the FBI to effectively and expeditiously conduct its responsibilities in combating international terrorism, organized crime, cyber crime, and general criminal matters,'' and that while ''they do not conduct foreign intelligence gathering,'' ''typical duties'' include . . . ''conducting investigations in coordination with the host government; sharing investigative leads and information; briefing Embassy counterparts from other agencies, including law enforcement agencies, as appropriate, and Ambassadors. . . providing situation reports concerning cultural protocol; [and] assessing political and security climates.''.

(21) The July 2008 Preliminary Findings by the Project on National Security Reform, entitled ''Enduring Security in an Unpredictable World: the Urgent Need for National Security Reform,'' included the following:

(A) The lack of a national security strategy that clearly links ends, ways, and means and assigned roles and responsibilities to each department has encouraged a proliferation of department-level strategies. These department strategies are uncoordinated and do not systematically generate capabilities required for national objectives

(B) The resource allocation process is not driven by any overall national plan or strategy for achieving broad objectives, and the results or effectiveness of the budgeting process cannot be measured against such objectives.

(C) The national security system tends to overemphasize traditional security threats and under emphasize emerging challenges.

**SEC. 604. ESTABLISHMENT AND FUNCTIONS OF THE COMMISSION.**

(a) ESTABLISHMENT.—There is established in the legislative branch a Foreign Intelligence and Information Commission.

(b) FUNCTIONS.—The Commission shall—

(1) evaluate any current processes or systems for the strategic integration of the intelligence community, including the Open Source Center, and other elements of the United States Government, including the Department of State, with regard to the collection, reporting and analysis of foreign intelligence and information;

(2) provide recommendations to improve or develop such processes or systems to include the development of an inter-agency strategy that identifies—

(A) the collection, reporting, and analysis requirements of the United States Government;

(B) the elements of the United States Government best positioned to meet collection and reporting requirements;

(C) collection and reporting missions for the intelligence community and other elements of the United States Government based on the requirements of the United States Government, comparative institutional advantages, and other relevant factors;

(D) analytical capabilities needed to achieve the requirements of the United States Government; and

(E) inter-agency budget and resource allocations necessary to achieve such collection, reporting, and analytical requirements;

(3) evaluate the extent to which current intelligence collection, reporting, and analysis strategies are aimed at providing global coverage and anticipating future threats, challenges, and crises;

(4) provide recommendations on how to incorporate into the inter-agency strategy the means to anticipate future threats, challenges, and crises, including by identifying and supporting collection, reporting, and analytical capabilities which are global in scope and which are directed at emerging, long-term, and strategic targets;

(5) provide recommendations on strategies for sustaining human and budgetary resources to effect the global collection and reporting missions identified in the inter-agency strategy, including the prepositioning of collection and reporting capabilities;

(6) provide recommendations for developing, clarifying, and, if necessary, bolstering current and future collection and reporting roles and capabilities of elements of the United States Government outside the intelligence community deployed overseas;

(7) provide recommendations related to the role of individual country missions in contributing to the inter-agency strategy;

(8) evaluate the extent to which the establishment of new embassies and out-of-embassy posts are able to contribute to expanded global coverage and increased collection and reporting and provide recommendations related to the establishment of new embassies and out-of-embassy posts;

(9) provide recommendations related to the establishment of any new executive branch entity, or the expansion of the authorities of any existing executive branch entity, as needed to improve the strategic integration described in paragraph (1) and develop and oversee the implementation of the inter-agency strategy;

(10) provide recommendations on any legislative changes necessary to establish any new entity or to expand the authorities of any existing entity, as described in paragraph (9);

(11) provide recommendations on processes for developing and presenting to Congress budget requests for each relevant element of the United States Government that reflect the allocations identified in the inter-agency strategy and for congressional oversight of the development and implementation of the strategy; and

(12) provide recommendations on any institutional reforms related to the collection and reporting roles of individual elements of the United States Government outside the intelligence community, as well as any budgetary, legislative, or other changes needed to achieve such reforms.

**SEC. 605. MEMBERS AND STAFF OF THE COMMISSION.**

(a) MEMBERS OF THE COMMISSION.—

(1) APPOINTMENT.—The Commission shall be composed of 10 members as follows:

(A) Two members appointed by the majority leader of the Senate.

(B) Two members appointed by the minority leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) Two members appointed by the minority leader of the House of Representatives.

(E) One nonvoting member appointed by the Director of National Intelligence.

(F) One nonvoting member appointed by the Secretary of State.

(2) SELECTION.—

(A) IN GENERAL.—Members of the Commission shall be individuals who—

(i) are private citizens; and

(ii) have—

(I) knowledge and experience in foreign information and intelligence collection, reporting, and analysis, including clandestine collection and classified analysis, diplomatic reporting and analysis, and collection of public and open source information;

(II) knowledge and experience in issues related to the national security and foreign policy of the United States gained by serving as a senior official of the Department of State, a member of the Foreign Service, an employee or officer of an appropriate agency or department of the United States, or an independent organization with expertise in the field of international affairs; or

(III) knowledge and experience with foreign policy decision making.

(B) DIVERSITY OF EXPERIENCE.—The individuals appointed to the Commission should be selected with a view to establishing diversity of experience with regard to various geographic regions, functions, and issues.

(3) TIME OF APPOINTMENT.—The appointments under subsection (a) shall be made not later than 60 days after the date of the enactment of this Act.

(4) TERM OF APPOINTMENT.—Members shall be appointed for the life of the Commission.

(5) VACANCIES.—Any vacancy of the Commission shall not affect the powers of the Commission and shall be filled in the manner in which the original appointment was made.

(6) CHAIR.—The members of the Commission shall designate 1 of the voting members to serve as the chair of the Commission.

(7) QUORUM.—Six members of the Commission shall constitute a quorum for purposes of transacting the business of the Commission.

(8) MEETINGS.—The Commission shall meet at the call of the chair and shall meet regularly, not less than once every 3 months, during the life of the Commission.

(b) STAFF.—

(1) IN GENERAL.—The chair of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and, in consultation with the executive director, appoint and terminate such other additional personnel as may be necessary to enable the Commission to perform its duties. In addition to the executive director and 1 full-time support staff for the executive director, there shall be additional staff with relevant intelligence and foreign policy experience to help support the Commission's work.

(2) SELECTION OF THE EXECUTIVE DIRECTOR.—The executive director shall be selected with the approval of a majority of the members of the Commission.

(3) COMPENSATION.—

(A) EXECUTIVE DIRECTOR.—The executive director shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) STAFF.—The chair of the Commission may fix the compensation of other staff of the Commission without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of such title.

(c) EXPERTS AND CONSULTANTS.—This Commission is authorized to procure temporary or intermittent services of experts and consultants as necessary to the extent authorized by section 3109 of title 5, United States Code, at rates not to exceed the maximum annual rate of basic pay payable under section 5376 of such title.

(d) STAFF AND SERVICES OF OTHER AGENCIES OR DEPARTMENT OF THE UNITED STATES.—Upon the request of the Commission, the head of an agency or department of the United States may detail, on a reimbursable or nonreimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out this title. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

(e) SECURITY CLEARANCE.—The appropriate agencies or departments of the United States shall cooperate with the Commission in expeditiously providing to the members and staff of the Commission appropriate security clearances to the extent possible pursuant to existing procedures and requirements.

**SEC. 606. POWERS AND DUTIES OF THE COMMISSION.**

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission may, for the purpose of carrying out this title—

(A) hold hearings, sit and act at times and places in the United States and in countries in which the United States has a diplomatic presence, take testimony, and receive evidence as the Commission considers advisable to carry out this title; and

(B) subject to subsection (b)(1), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission considers necessary.

(b) SUBPOENAS.—

(1) ISSUANCE.—

(A) IN GENERAL.—A subpoena may be issued under this section only—

(i) by the agreement of the chair of the Commission; and

(ii) by the affirmative vote of 5 members of the Commission.

(B) SIGNATURE.—Subject to subparagraph (A), subpoenas issued under this section may be issued under the signature of the chair or any member designated by a majority of the Commission and may be served by any person designated by the chair or by a member designated by a majority of the Commission.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under this section, the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(B) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102, 103, or 104 of the Revised Statutes of the United States (2 U.S.C. 192, 193, and 194).

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any agency or department of the United States such information as the Commission considers necessary to carry out this title. Upon request of the chair of the Commission, the head of such agency or department shall furnish such information to the Commission, subject to applicable law.

(d) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as an agency or department of the United States.

(e) ADMINISTRATIVE SUPPORT.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a nonreimbursable basis) such administrative support services as the Commission may request to carry out this title.

(f) ADMINISTRATIVE PROCEDURES.—The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable it to carry out this title.

(g) TRAVEL.—

(1) IN GENERAL.—The members and staff of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out this title.

(2) EXPENSES.—Members of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(h) GIFTS.—No member of the Commission may receive a gift or benefit by reason of such member's service on the Commission.

**SEC. 607. REPORT OF THE COMMISSION.**

(a) IN GENERAL.—

(1) INTERIM REPORT.—Not later than 1 year after the members of the Commission are appointed under section 5(a), the Commission shall submit an interim report to the congressional intelligence committees setting forth the preliminary findings and recommendations of the Commission described in section 604(b).

(2) FINAL REPORT.—Not later than 4 months after the submission of the report required by paragraph (1), the Commission shall submit a final report setting forth the final findings and recommendations of the Commission described in section 604(b) to the following:

(A) The President.

(B) The Director of National Intelligence.

(C) The Secretary of State.

(D) The congressional intelligence committees.

(E) The Committee on Foreign Relations of the Senate.

(F) The Committee on Foreign Affairs of the House of Representatives.

(b) INDIVIDUAL OR DISSENTING VIEWS.—Each member of the Commission may include that member's dissenting views in a report required by paragraph (1) or (2) of subsection (a).

(c) FORM OF REPORT.—The reports required by paragraphs (1) and (2) of subsection (a), including any finding or recommendation of such report, shall be submitted in both an unclassified and a classified form.

**SEC. 608. TERMINATION.**

The Commission shall terminate 60 days after the submission of the report required by section 607(a)(2).

**SEC. 609. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

**SEC. 610. FUNDING.**

(a) TRANSFER FROM THE NATIONAL INTELLIGENCE PROGRAM.—Of the amounts available for the National Intelligence Program for fiscal year 2010, $4,000,000 shall be available for transfer to the Commission to carry out this title.

(b) AVAILABILITY.—The amounts made available to the Commission pursuant to subsection (a) shall remain available until the termination of the Commission.

## TITLE VII—TECHNICAL AMENDMENTS

**SEC. 701. TECHNICAL AMENDMENTS TO THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.**

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) in section 101—

(A) in subsection (a), by moving paragraph (7) two ems to the right; and

(B) by moving subsections (b) through (p) two ems to the right;

(2) in section 103, by redesignating subsection (i) as subsection (h);

(3) in section 109(a)—

(A) in paragraph (1), by striking ''section 112.;'' and inserting ''section 112;''; and

(B) in paragraph (2), by striking the second period;

(4) in section 301(1), by striking '' 'United States' '' and all that follows through ''and 'State' '' and inserting '' 'United States', 'person', 'weapon of mass destruction', and 'State' '';

(5) in section 304(b), by striking ''subsection (a)(3)'' and inserting ''subsection (a)(2)''; and

(6) in section 502(a), by striking ''a annual'' and inserting ''an annual''.

**SEC. 702. TECHNICAL AMENDMENTS TO THE CENTRAL INTELLIGENCE AGENCY ACT OF 1949.**

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended—

(1) in paragraph (1) of section 5(a), by striking ''authorized under paragraphs (2) and (3) of section 102(a), subsections (c)(7) and (d) of section 103, subsections (a) and (g) of section 104, and section 303 of the National Security Act of 1947 (50 U.S.C. 403(a)(2), (3), 403–3(c)(7), (d), 403–4(a), (g), and 405)'' and inserting ''authorized under section 104A of the National Security Act of 1947 (50 U.S.C. 403–4a).''; and

(2) in section 17(d)(3)(B)—

(A) in clause (i), by striking ''advise'' and inserting ''advice''; and

(B) by amending clause (ii) to read as follows:

''(ii) holds or held the position in the Agency, including such a position held on an acting basis, of—

''(I) Deputy Director;

''(II) Associate Deputy Director;

''(III) Director of the National Clandestine Service;

''(IV) Director of Intelligence;

''(V) Director of Support; or

''(VI) Director of Science and Technology.''.

**SEC. 703. TECHNICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE.**

Section 528(c) of title 10, United States Code, is amended—

(1) in the heading, by striking ''ASSOCIATE DIRECTOR OF CIA FOR MILITARY AFFAIRS'' and inserting ''ASSOCIATE DIRECTOR OF MILITARY AFFAIRS, CIA''; and

(2) by striking ''Associate Director of the Central Intelligence Agency for Military Affairs'' and inserting ''Associate Director of Military Affairs, Central Intelligence Agency, or any successor position''.

**SEC. 704. TECHNICAL AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947.**

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—

(1) in section 3(4)(L), by striking ''other'' the second place it appears;

(2) in section 102A—

(A) in subsection (c)(3)(A), by striking ''annual budgets for the Joint Military Intelligence Program and for Tactical Intelligence and Related Activities'' and inserting ''annual budget for the Military Intelligence Program or any successor program or programs'';

(B) in subsection (d)—

(i) in paragraph (1)(B), by striking ''Joint Military Intelligence Program'' and inserting ''Military Intelligence Program or any successor program or programs'';

(ii) in paragraph (3) in the matter preceding subparagraph (A), by striking ''subparagraph (A)'' and inserting ''paragraph (1)(A)''; and

(iii) in paragraph (5)—

(I) in subparagraph (A), by striking ''or personnel'' in the matter preceding clause (i); and

(II) in subparagraph (B), by striking ''or agency involved'' in the second sentence and inserting ''involved or the Director of the Central Intelligence Agency (in the case of the Central Intelligence Agency)'';

(C) in subsection (l)(2)(B), by striking ''section'' and inserting ''paragraph''; and

(D) in subsection (n), by inserting ''AND OTHER'' after ''ACQUISITION'';

(3) in section 103(b), by striking '', the National Security Act of 1947 (50 U.S.C. 401 et seq.),'';

(4) in section 104A(g)(1) in the matter preceding subparagraph (A), by striking ''Directorate of Operations'' and inserting ''National Clandestine Service'';

(5) in section 119(c)(2)(B) (50 U.S.C. 404o(c)(2)(B)), by striking ''subsection (h)'' and inserting ''subsection (i)'';

(6) in section 701(b)(1), by striking ''Directorate of Operations'' and inserting ''National Clandestine Service'';

(7) in section 705(e)(2)(D)(i) (50 U.S.C. 432c(e)(2)(D)(i)), by striking ''responsible'' and inserting ''responsive''; and

(8) in section 1003(h)(2) in the matter preceding subparagraph (A), by striking ''subsection (i)(2)(B)'' and inserting ''subsection (g)(2)(B)''.

**SEC. 705. TECHNICAL AMENDMENTS RELATING TO THE MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.**

(a) IN GENERAL.—Subsection (a) of section 1403 of the National Defense Authorization Act for Fiscal Year 1991 (50 U.S.C. 404b) is amended—

(1) in the heading, by striking ''FOREIGN''; and

(2) by striking ''foreign'' each place it appears.

(b) RESPONSIBILITY OF DIRECTOR OF NATIONAL INTELLIGENCE.—Such section 1403, as amended by subsection (a), is further amended—

(1) in subsections (a) and (c), by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence''; and

(2) in subsection (b), by inserting ''of National Intelligence'' after ''Director''.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The heading of such section 1403 is amended to read as follows:

**''SEC. 1403. MULTIYEAR NATIONAL INTELLIGENCE PROGRAM.''.**

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 2 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1485) is amended by striking the item relating to section 1403 and inserting the following:

''Sec. 1403. Multiyear National Intelligence Program.''.

**SEC. 706. TECHNICAL AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.**

(a) AMENDMENTS TO THE NATIONAL SECURITY INTELLIGENCE REFORM ACT OF 2004.—The National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458; 118 Stat. 3643) is amended—

(1) in subparagraph (B) of section 1016(e)(10) (6 U.S.C. 485(e)(10)), by striking ''Attorney General'' the second place it appears and inserting ''Department of Justice'';

(2) in subsection (e) of section 1071, by striking ''(1)''; and

(3) in subsection (b) of section 1072, in the subsection heading by inserting ''AGENCY'' after ''INTELLIGENCE''.

(b) OTHER AMENDMENTS TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—The Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3638) is amended—

(1) in section 2001 (28 U.S.C. 532 note)—

(A) in paragraph (1) of subsection (c)—

(i) by striking ''shall,'' and inserting ''shall''; and

(ii) by inserting ''of'' before ''an institutional culture'';

(B) in paragraph (2) of subsection (e), by striking ''the National Intelligence Director in a manner consistent with section 112(e)'' and inserting ''the Director of National Intelligence in a manner consistent with applicable law''; and

(C) in subsection (f), by striking ''shall,'' in the matter preceding paragraph (1) and inserting ''shall''; and

(2) in section 2006 (28 U.S.C. 509 note)—

(A) in paragraph (2), by striking ''the Federal'' and inserting ''Federal''; and

(B) in paragraph (3), by striking ''the specific'' and inserting ''specific''.

**SEC. 707. TECHNICAL AMENDMENTS TO THE EXECUTIVE SCHEDULE.**

(a) EXECUTIVE SCHEDULE LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking the item relating to the Director of Central Intelligence and inserting the following new item:

''Director of the Central Intelligence Agency.''.

(b) EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by striking the item relating to the Deputy Directors of Central Intelligence and inserting the following new item:

''Deputy Director of the Central Intelligence Agency.''.

(c) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking the item relating to the General Counsel of the Office of the National Intelligence Director and inserting the following new item:

''General Counsel of the Office of the Director of National Intelligence.''.

**SEC. 708. TECHNICAL AMENDMENTS TO SECTION 105 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004.**

Section 105(b) of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 117 Stat. 2603; 31 U.S.C. 311 note) is amended—

(1) by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence''; and

(2) by inserting ''or in section 313 of such title,'' after ''subsection (a)),''.

**SEC. 709. TECHNICAL AMENDMENTS TO SECTION 602 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995.**

Section 602 of the Intelligence Authorization Act for Fiscal Year 1995 (50 U.S.C. 403–2b) is amended—

(1) in subsection (a), in paragraph (2), by striking ''Director of Central Intelligence''

and inserting ''Director of National Intelligence''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence''; and

(ii) in subparagraph (B), by striking ''Director of Central Intelligence'' and inserting ''Director of National Intelligence''; and

(C) in paragraph (3), by striking ''Director of Central Intelligence'' and inserting ''Director of the Central Intelligence Agency''.

**SEC. 710. TECHNICAL AMENDMENTS TO SECTION 403 OF THE INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992.**

(a) ROLE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—Section 403 of the Intelligence Authorization Act, Fiscal Year 1992 (50 U.S.C. 403–2) is amended by striking ''The Director of Central Intelligence'' and inserting the following:

''(a) IN GENERAL.—The Director of National Intelligence''.

(b) DEFINITION OF INTELLIGENCE COMMUNITY.—Section 403 of the Intelligence Authorization Act, Fiscal Year 1992, as amended by subsection (a), is further amended—

(1) by striking ''Intelligence Community'' and insert ''intelligence community''; and

(2) by striking the second sentence and inserting the following:

''(b) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

## DEFENSE PRODUCTION ACT REAUTHORIZATION OF 2009

Mr. CASEY. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. 1677, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1677) to reauthorize the Defense Production Act of 1950, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DODD. Mr. President, I rise at a moment when our Nation is enduring its worst economic crisis since the Great Depression. This crisis began in the financial sector, but it has impacted every sector of our economy. And perhaps one of the hardest-hit has been our manufacturing sector, which was already reeling even before this crisis.

Over the last decade, we have lost an average of 40,000 manufacturing jobs per month. In Connecticut, we lost nearly 16,000 manufacturing jobs in the last year alone more than 8 percent of our manufacturing sector, gone.

These figures represent the loss of American livelihoods, the economic security of thousands of families.

And they represent a clear and present threat to our national security.

We rely on key domestic industries to supply critical goods and services in a timely fashion when our nation faces an emergency. In wartime and in the aftermath of natural disasters, factories in my state of Connecticut and around the country are relied upon for everything from raw metal to military vehicles and power generators. These products are essential to supporting our war efforts, maintaining critical infrastructure, and protecting our homeland.

Connecticut, although it is 29th in total population, ranks 6th in total employment in the military and aerospace sector. Tens of thousands of residents of my State work in this industry.

When this industrial base is threatened, our military and emergency preparedness suffer.

Six decades ago, President Harry Truman sought to bolster this critical bulwark of security by signing the Defense Production Act, or DPA, into law. The DPA allows the government to tap industrial resources to meet domestic energy supply, address emergency preparedness, protect infrastructure, and help civilian agencies and the military respond to crisis situations.

In the 1950s, the DPA served to address our new national security realities in the wake of the Cold War. In the ensuing decades, beginning with the Korean War, the DPA kept production lines humming, military supply lines fully stocked, and our country prepared in case of emergency.

Congress has reauthorized this Act every few years, but has only sporadically sought to update its provisions to meet changing conditions. And thus, according to independent analyses, Federal agencies' understanding and use of the tools provided by this act have become inconsistent.

Thus, we have proposed bipartisan legislation to make critical reforms to our national defense industrial policy. The Dodd-Shelby bill reflects the contributions of DPA practitioners from a variety of agencies, particularly the Departments of Defense and Homeland Security. And I would like to express my appreciation for the work of two civil servants who worked especially hard to help us develop this legislation: Larry Hall, DPA Director at FEMA, and Mark Buffler, DPA title III Program Manager at DOD.

The bill responds to the analysis of two landmark studies completed last year, as required by my amendments to the 9/11 Commission Recommendations Act and the fiscal year 2008 National Defense Authorization Act, which directed DHS and the GAO to report to Congress on how the DPA is being used.

In its report, DHS conceded that several agencies authorized to use DPA tools don't take advantage of them. And the GAO report echoed those findings, recommending greater coordination and pro-active use of key DPA authorities.

For instance, under title I of the DPA, the President is empowered to require companies to set aside their commercial business obligations and fulfill government contracts first in order to meet national defense needs. However, although a wide range of Departments and agencies are directed to use this authority, only Defense, Homeland Security, and Energy are doing so. The Pentagon has used it to require companies to set aside other work until production of mine-resistant ambush protected vehicles was complete. FEMA, in coordination with Commerce, has used it to expedite the delivery of power generators and transfer switches needed to restore railroad operations in New Orleans after Katrina. But other agencies that could, and should, be taking advantage of title I, aren't.

Moreover, the GAO found that, unlike DOD, FEMA doesn't even prepare title I contingency plans, which means that it takes longer for DPA provisions to be implemented even after they are enacted.

Therefore, our bill, at the GAO's recommendation, requires that every authorized agency establish a priorities and allocation system similar to that in place at the Pentagon and to coordinate with other agencies in its implementation.

It also sets up a new interagency body that will elevate DPA policy discussions to Cabinet-level posts, so that administrations going forward will be able to reassess the law's provisions and applications, and never lose sight of the importance of coordinating with critical segments of our industry to meet national defense needs. The President will designate a chairperson to lead this committee, which will be composed of Cabinet officials and agency heads authorized to use DPA tools, as well as the chairman of the Council of Economic Advisers. And the President will also appoint a Deputy Assistant Secretary to coordinate high-level dialogue among relevant government agencies.

This elevated discussion will prove particularly essential in the implementation of title III of the DPA, which allows the President to provide financial incentives including direct capital purchases, loans, and loan guarantees—for U.S. firms to expand domestic production of critical industries. These authorities are critically important—and underused.

Title III is used when the U.S. is overly reliant on foreign sources for a critical product, or when there is otherwise insufficient domestic supply of the product. Unlike other Federal assistance, title III is managed by industry experts. And it is designed to assist companies capable of meeting specific requirements: that the firms can't meet government needs on their own, and that the assistance will lead to commercial viability in the long term.

Today, we have strong evidence that defense companies all along the supply chain—particularly in the third and fourth subcontractor tier—are being denied access to credit. Machine tool and parts manufacturers in defense and dual-use industries are having a hard time getting capital—not because demand is down, but because bank lending is down. Government loan and loan

guarantee authorities in title III would help—but, the government isn't using those tools.

Therefore, our bill modernizes those powers and brings them into compliance with the 1990 Federal Credit Reform Act. Accordingly, under our bill, such loans and loan guarantees are allowed only to the extent that an appropriations act provides budget authority in advance.

As frozen credit markets continue to hurt our industrial base, it is critical that we revitalize our factories. According to the Department of Commerce, manufacturing now makes up 13 percent of the U.S. economy a quarter of what it was three decades ago. And foreign-made products have risen from a tenth to a third of what we consume over that same time. We are at risk of becoming overly dependent on foreign sources of critical goods, materials, and technology and losing our manufacturing facilities and workforce.

A non-partisan think tank, the Lexington Institute, recently wrote:

If the erosion of U.S. manufacturing persists, America will become more dependent on offshore sources of goods and the nation's trade balance will weaken. That will undercut the role of the dollar as a reserve currency and diminish U.S. influence around the world. The economy will be less capable of supporting major military campaigns and less resilient in the face of market reverses. Most profoundly, America will become poorer relative to other nations, a trend that the National Intelligence Council says is already under way in its most recent assessment of global trends.

This bill isn't a silver bullet to address all of these problems. But it's an important first step towards making more effective one of our best tools to strengthen our manufacturing base. Our bill also makes these efforts more transparent, requiring notification to Congress and a 30-day waiting period for larger projects. As we look to expand DPA use, we are also working to make it more accountable to taxpayers.

As the GAO reported:

Since the DPA was last reauthorized in 2003, there has been little use of its authorities for areas other than defense. Lessons learned from catastrophic events have emphasized the importance of ensuring that needed capabilities and contracts for key items are in place in advance of a disaster.

Congress didn't intend for such inertia. And now, more than ever, we need dynamic government action to reinvigorate our manufacturing base. It is time for the executive branch to take heed of the warning signs, repair the vulnerabilities in our industries, and restore our manufacturing capacities in the name of our national and economic security.

Mr. DODD. Mr. President, before concluding our discussion about the 2009 Defense Production Act Reauthorization, I would like to pay tribute to two of my colleagues who have worked diligently on this legislation. First, my friend and ranking member of the Banking Committee, Senator SHELBY. Nobody understands the complexities of national security policy and its nexus with economic affairs better than the senior Senator from Alabama. Given the importance of reauthorizing and updating the law prior to its expiration on September 30, I appreciated his good counsel and sincere effort to expedite approval of this important legislation today. I would also like to thank Senator BROWN for his work, particularly as chairman of the Economic Policy Subcommittee. The Senator from Ohio has proven to be both an expert on U.S. manufacturing and a skillful surveyor of how the current credit crisis is affecting America's national defense industrial base.

Mr. BROWN. Mr. President, I appreciate the kind words of the Senator from Connecticut. At a hearing of the Economic Policy Subcommittee on May 13, witnesses discussed the challenges tight credit markets pose for small and medium-sized manufacturers, as well as the economic, strategic, and security implications of a weakened manufacturing sector.

Among our witnesses were the president of the United Steelworkers, and a managing director of the Carlyle Group. It is not every day Congress sees representatives from these two institutions, but when it comes to the importance of manufacturing to this nation, the United Steelworkers and the Carlyle Group are on the same page.

The reason is simple. Manufacturing accounts for $1.6 trillion of U.S. GDP—12 percent—and accounts for nearly three-fourths of the Nation's industrial research and development. Manufacturing jobs also pay 20 percent more on average than service jobs. Each manufacturing job supports four to five other jobs throughout the U.S. economy.

In short, manufacturing matters a great deal to our Nation's strength.

One important finding that emerged during this hearing is that reauthorization and expansion of the Defense Production Act of 1950 may provide the U.S. Government with valuable tools for maintaining critical supply lines, which would be particularly useful at a time when U.S. manufacturers are experiencing declining access to credit.

Mr. DODD. Mr. President, I could not agree more. And I appreciated the leadership that Senator BROWN demonstrated in highlighting these important facts during his hearing. In fact, I expressed a similar sentiment in a letter to Homeland Security Secretary Janet Napolitano in February, which I will ask to be made part of the RECORD.

With this legislation in place, not only do we expect the current and future administrations to apply these newly updated authorities when appropriate, but I hope that they will take care to use them in a creative and appropriate manner in response to ongoing problems that threaten the long-term health of our industrial base—namely the credit crisis' impact on U.S. manufacturing.

My colleague from Ohio has played a key role in raising awareness of these important matters and ensuring that the current administration work with Congress to address our concerns. In particular, I appreciated his ongoing contact with the administration regarding his subcommittee's findings.

Mr. BROWN. Mr. President, the key to America's long-term security and prosperity is a healthy and viable domestic manufacturing base. I am hopeful that the administration will use the tools set in place by this legislation to achieve these ends. It is for this reason that Senator DODD, Senator MERKLEY, Senator WARNER and I sent a letter—which I will ask to be printed in the RECORD—to the Office of Management and Budget urging the administration to provide their recommendations on changes to the Defense Production Act.

Mr. President, I ask unanimous consent to have the two letters which were referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEBRUARY 4, 2009.

Hon. JANET NAPOLITANO,
*Secretary, U.S. Department of Homeland Security, Washington, DC.*

DEAR SECRETARY NAPOLITANO: I am writing to inquire about government efforts underway to address a potentially serious consequence of the global economic and financial crisis. Because manufacturers' access to credit is becoming increasingly limited, I am concerned about the ability of key sectors of our industrial base to meet emergency response and defense needs of the federal government.

I understand that the Federal Emergency Management Agency is leading an interagency process to review and reform current authorities afforded by the Defense Production Act (50 U.S.C. App. 2061, et seq.) and Executive Order 12919. I hope such an effort will help address our nation's industrial readiness to maintain our critical infrastructure and emergency preparedness.

I would like to know the current status of this initiative, which should be completed with all due care and speed. With the Bureau of Economic Analysis reporting a 27.8 percent decline in investment in equipment and software for the last quarter, some analysts are indicating that federal assistance to banks may not be thawing credit markets adequately to maintain U.S. manufacturing capabilities. According to the Federal Reserve Board, manufacturing output fell 2.3 percent in December to a level almost 10 percent below that of 12 months earlier. For the fourth quarter of last year, manufacturing output contracted at an annual rate of more than 16 percent. In December, the factory operating rate moved down 1.7 percentage points, to 70.2 percent, a level 9.5 percentage points below its 1972 to 2007 average. The production of durable goods declined 2.6 percent in December. Output fell in virtually every major category of durable goods except for aerospace equipment and miscellaneous transportation equipment.

As the Banking Committee begins to consider legislation to re-authorize the Defense Production Act (DPA), I would appreciate your insights into how the authorities of the DPA may be used to reverse these trends and help maintain viable production capabilities for items essential for our national defense as defined by Section 702 of the DPA. Of special interest is how Title I of this Act may be

better used to ensure adequate government access to critical goods during emergencies and, under Title III how provisions—including possible direct loan guarantees—might be used by key industries needing access to credit. I believe your Department's April 25, 2008, report ''Use of the Defense Production Act to Reduce Interruptions in Critical Infrastructure and Key Resource Operations During Emergencies'' will prove useful in revisiting key DPA authorities.

Please report to me on your progress in reviewing these authorities at your earliest convenience. I would appreciate interim reports or proposals being made available to Senate Banking Committee staff prior to the Administration's final submission of DPA legislation. Thank you for your attention to this important matter.

Sincerely,

CHRISTOPHER J. DODD,
*Chairman.*

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JUNE 1, 2009.

Mr. PETER ORSZAG,
*Director, Office of Management and Budget, Washington, DC.*

DEAR DIRECTOR ORSZAG: We are writing to request your prompt recommendations to Congress on key legislative proposals currently under your office's review. This letter comes as a follow-up to a hearing of the Subcommittee on Economic Policy held May 13 entitled, ''Manufacturing and the Credit Crisis.''

Witnesses discussed the challenges tight credit markets pose for small and medium-sized manufacturers, as well as the economic, strategic, and security implications of a weakened manufacturing sector. Absent some mechanism for providing or spurring access to credit, witnesses testified, key government functions—ranging from defense to critical infrastructure operations—could be impaired.

One important finding that emerged during this hearing is that reauthorization and expansion of the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq) may provide the United States government valuable tools for maintaining critical supply lines, particularly at a time when U.S. manufacturers are experiencing declining access to credit.

Over the past five decades, the DPA has been amended beyond its original focus on military requirements, to expand industrial resources to meet energy supply, emergency preparedness, and critical infrastructure protection needs, thereby allowing civilian agencies to rapidly respond to crises such as natural disasters and terrorist attacks. Titles I, III, and VII of the Act remain in effect, which include authorities to require preferential performance on government contracts, to fund expanded production capabilities for critical security needs, and to collect information on the domestic industrial base.

At the May 13 hearing, witnesses recommended the following:

Revitalizing the Interagency Task Force that administers the DPA, with a chairman designated by the President.

Increasing the level of funding available for DPA at the Department of Homeland Security, Department of Energy, and Department of Defense.

Resuming the loan guarantee authorities under Title III of the DPA, in accordance with OMB guidance.

It is our understanding that OMB is reviewing interagency proposals. A thorough review of the DPA, and consideration of reforms, will require additional hearings. Given the urgency of manufacturers' challenges, the impending expiration of DPA authorities on September 30, and the impending Fiscal Year 2010 appropriations process, we urge you to promptly review the DPA and forward your recommendations to Congress.

Thank you for your attention to this matter.

Sincerely,

SHERROD BROWN,
*Chairman, Economic Policy Subcommittee.*
CHRISTOPHER J. DODD,
*Chairman, Banking, House, & Urban Affairs.*
JEFF MERKLEY,
*U.S. Senator.*
MARK WARNER,
*U.S. Senator.*

Mr. CASEY. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1677) was ordered to be read the third time, was read the third time, and passed, as follows:

S. 1677

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Defense Production Act Reauthorization of 2009''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:



**SEC. 2. REAUTHORIZATION OF DEFENSE PRODUCTION ACT OF 1950.**

(a) TERMINATION OF ACT.—

(1) TERMINATION.—Section 717 of the Defense Production Act of 1950 (50 U.S.C. App. 2166) is amended—

(A) by striking subsections (a) and (b) and inserting the following:

''(a) Title I (except section 104), title III, and title VII (except sections 707, 708, and 721) shall terminate on September 30, 2014, except that all authority extended under title III on or after the date of enactment of the Defense Production Act Reauthorization of 2009 shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

''(b) Notwithstanding subsection (a), any agency created under a provision of law that is terminated under subsection (a) may continue in existence, for purposes of liquidation, for a period not to exceed 6 months, beginning on the date of termination of the provision authorizing the creation of such agency under subsection (a).''; and

(B) in subsection (c), by striking the second undesignated paragraph.

(2) REPEALS.—Titles II, IV, V, and VI of the Defense Production Act of 1950 (50 U.S.C. App. 2151 et seq., 2101 et seq., 2121 et seq., and 2131 et seq.) are repealed.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ''(including'' and all that follows through '') by'' and inserting ''by''; and

(B) by striking ''(a) AUTHORIZATION.—Except as provided in subsection (b), there'' and inserting ''There''; and

(2) by striking subsection (b).

**SEC. 3. DECLARATION OF POLICY.**

(a) FINDINGS.—Section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended to read as follows:

**''SEC. 2. DECLARATION OF POLICY.**

''(a) FINDINGS.—Congress finds that—

''(1) the security of the United States is dependent on the ability of the domestic industrial base to supply materials and services for the national defense and to prepare for and respond to military conflicts, natural or man-caused disasters, or acts of terrorism within the United States;

''(2) to ensure the vitality of the domestic industrial base, actions are needed—

''(A) to promote industrial resources preparedness in the event of domestic or foreign threats to the security of the United States;

''(B) to support continuing improvements in industrial efficiency and responsiveness;

''(C) to provide for the protection and restoration of domestic critical infrastructure operations under emergency conditions; and

''(D) to respond to actions taken outside of the United States that could result in reduced supplies of strategic and critical materials, including energy, necessary for national defense and the general economic well-being of the United States;

''(3) in order to provide for the national security, the national defense preparedness effort of the United States Government requires—

''(A) preparedness programs to respond to both domestic emergencies and international threats to national defense;

''(B) measures to improve the domestic industrial base for national defense;

''(C) the development of domestic productive capacity to meet—

''(i) essential national defense needs that can result from emergency conditions; and

''(ii) unique technological requirements; and

''(D) the diversion of certain materials and facilities from ordinary use to national defense purposes, when national defense needs cannot otherwise be satisfied in a timely fashion;

''(4) to meet the requirements referred to in this subsection, this Act provides the President with an array of authorities to shape national defense preparedness programs and to take appropriate steps to maintain and enhance the domestic industrial base;

''(5) in order to ensure national defense preparedness, it is necessary and appropriate to assure the availability of domestic energy supplies for national defense needs;

''(6) to further assure the adequate maintenance of the domestic industrial base, to the maximum extent possible, domestic energy supplies should be augmented through reliance on renewable energy sources (including solar, geothermal, wind, and biomass sources), more efficient energy storage and distribution technologies, and energy conservation measures;

''(7) much of the industrial capacity that is relied upon by the United States Government for military production and other national defense purposes is deeply and directly influenced by—

''(A) the overall competitiveness of the industrial economy of the United States; and

''(B) the ability of industries in the United States, in general, to produce internationally competitive products and operate profitably while maintaining adequate research and development to preserve competitiveness with respect to military and civilian production; and

''(8) the inability of industries in the United States, especially smaller subcontractors and suppliers, to provide vital parts and components and other materials would impair the ability to sustain the Armed Forces of the United States in combat for longer than a short period.

''(b) STATEMENT OF POLICY.—It is the policy of the United States that—

''(1) to ensure the adequacy of productive capacity and supply, Federal departments and agencies that are responsible for national defense acquisition should continuously assess the capability of the domestic industrial base to satisfy production requirements under both peacetime and emergency conditions, specifically evaluating the availability of adequate production sources, including subcontractors and suppliers, materials, skilled labor, and professional and technical personnel;

''(2) every effort should be made to foster cooperation between the defense and commercial sectors for research and development and for acquisition of materials, components, and equipment;

''(3) plans and programs to carry out the purposes of this Act should be undertaken with due consideration for promoting efficiency and competition;

''(4) in providing United States Government financial assistance under this Act to correct a domestic industrial base shortfall, the President should give consideration to the creation or maintenance of production sources that will remain economically viable after such assistance has ended;

''(5) authorities under this Act should be used to reduce the vulnerability of the United States to terrorist attacks, and to minimize the damage and assist in the recovery from terrorist attacks that occur in the United States;

''(6) in order to ensure productive capacity in the event of an attack on the United States, the United States Government should encourage the geographic dispersal of industrial facilities in the United States to discourage the concentration of such productive facilities within limited geographic areas that are vulnerable to attack by an enemy of the United States;

''(7) to ensure that essential national defense requirements are met, consideration should be given to stockpiling strategic materials, to the extent that such stockpiling is economical and feasible; and

''(8) in the construction of any industrial facility owned by the United States Government, in the rendition of any financial assistance by the United States Government for the construction, expansion, or improvement of any industrial facility, and in the production of goods and services, under this Act or any other provision of law, each department and agency of the United States Government should apply, under the coordination of the Federal Emergency Management Agency, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of geographic dispersal of such facilities in the interest of national defense.''.

**SEC. 4. PRIORITY IN CONTRACTS AND ORDERS.**

Section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071) is amended by adding at the end the following:

''(d) The head of each Federal agency to which the President delegates authority under this section shall—

''(1) not later than 270 days after the date of enactment of the Defense Production Act Reauthorization of 2009, issue final rules, in accordance with section 553 of title 5, United States Code, that establish standards and procedures by which the priorities and allocations authority under this section is used to promote the national defense, under both emergency and nonemergency conditions; and

''(2) as appropriate and to the extent practicable, consult with the heads of other Federal agencies to develop a consistent and unified Federal priorities and allocations system.''.

**SEC. 5. DESIGNATION OF ENERGY AS A STRATEGIC AND CRITICAL MATERIAL.**

Section 106 of the Defense Production Act of 1950 (50 U.S.C. App. 2076) is amended—

(1) by striking ''such designation'' and all that follows through ''(1)'' and inserting ''such designation'';

(2) by striking ''; or'' and inserting a period; and

(3) by striking paragraph (2).

**SEC. 6. STRENGTHENING DOMESTIC CAPABILITY.**

Section 107 of the Defense Production Act of 1950 (50 U.S.C. App. 2077) is amended—

(1) in subsection (a)—

(A) by inserting ''restore,'' after ''modernize,''; and

(B) by inserting ''materials,'' after ''items,''; and

(2) in subsection (b)—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1), as so redesignated, by striking ''or critical technology items'' and inserting '', critical technology items, essential materials, and industrial resources''.

**SEC. 7. EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY.**

Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended to read as follows:

**''TITLE III—EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY**

**''SEC. 301. PRESIDENTIAL AUTHORIZATION FOR THE NATIONAL DEFENSE.**

''(a) EXPEDITING PRODUCTION AND DELIVERIES OR SERVICES.—

''(1) AUTHORIZED ACTIVITIES.—To reduce current or projected shortfalls of industrial resources, critical technology items, or essential materials needed for national defense purposes, subject to such regulations as the President may prescribe, the President may authorize a guaranteeing agency to provide guarantees of loans by private institutions for the purpose of financing any contractor, subcontractor, provider of critical infrastructure, or other person in support of production capabilities or supplies that are deemed by the guaranteeing agency to be necessary to create, maintain, expedite, expand, protect, or restore production and deliveries or services essential to the national defense.

''(2) PRESIDENTIAL DETERMINATIONS REQUIRED.—Except during a period of national emergency declared by Congress or the President, a loan guarantee may be entered into under this section only if the President determines that—

''(A) the loan guarantee is for an activity that supports the production or supply of an industrial resource, critical technology item, or material that is essential for national defense purposes;

''(B) without a loan guarantee, credit is not available to the loan applicant under reasonable terms or conditions sufficient to finance the activity;

''(C) the loan guarantee is the most cost effective, expedient, and practical alternative for meeting the needs of the Federal Government;

''(D) the prospective earning power of the loan applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed;

''(E) the loan to be guaranteed bears interest at a rate determined by the Secretary of the Treasury to be reasonable, taking into account the then-current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan;

''(F) the loan agreement for the loan to be guaranteed provides that no provision of the loan agreement may be amended or waived without the consent of the fiscal agent of the United States for the guarantee; and

''(G) the loan applicant has provided or will provide—

''(i) an assurance of repayment, as determined by the President; and

''(ii) security—

''(I) in the form of a performance bond, insurance, collateral, or other means acceptable to the fiscal agent of the United States; and

''(II) in an amount equal to not less than 20 percent of the amount of the loan.

''(3) LIMITATIONS ON LOANS.—Loans under this section may be—

''(A) made or guaranteed under the authority of this section only to the extent that an appropriations Act—

''(i) provides, in advance, budget authority for the cost of such guarantees, as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a); and

''(ii) establishes a limitation on the total loan principal that may be guaranteed; and

''(B) made without regard to the limitations of existing law, other than section 1341 of title 31, United States Code.

''(b) FISCAL AGENTS OF THE UNITED STATES.—

''(1) IN GENERAL.—Any Federal agency or any Federal reserve bank, when designated by the President, is hereby authorized to act, on behalf of any guaranteeing agency, as fiscal agent of the United States in the making of such contracts of guarantee and in otherwise carrying out the purposes of this section.

''(2) FUNDS.—All such funds as may be necessary to enable any fiscal agent described in paragraph (1) to carry out any guarantee made by it on behalf of any guaranteeing agency shall be supplied and disbursed by or under authority from such guaranteeing agency.

''(3) LIMIT ON LIABILITY.—No fiscal agent described in paragraph (1) shall have any responsibility or accountability, except as agent in taking any action pursuant to or under authority of this section.

''(4) REIMBURSEMENTS.—Each fiscal agent described in paragraph (1) shall be reimbursed by each guaranteeing agency for all expenses and losses incurred by such fiscal agent in acting as agent on behalf of such guaranteeing agency, including, notwithstanding any other provision of law, attorneys' fees and expenses of litigation.

''(c) OVERSIGHT.—

''(1) IN GENERAL.—All actions and operations of fiscal agents under authority of or pursuant to this section shall be subject to the supervision of the President, and to such regulations as the President may prescribe.

''(2) OTHER AUTHORITY.—The President is authorized to prescribe—

''(A) either specifically or by maximum limits or otherwise, rates of interest, guarantee and commitment fees, and other charges which may be made in connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through fiscal agents under this section; and

''(B) regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

''(d) AGGREGATE GUARANTEE AMOUNTS.—

''(1) INDUSTRIAL RESOURCE AND CRITICAL TECHNOLOGY SHORTFALLS.—

''(A) IN GENERAL.—If the making of any guarantee or obligation of the Federal Government under this title relating to a domestic industrial base shortfall would cause the aggregate outstanding amount of all guarantees for such shortfall to exceed $50,000,000, any such guarantee may be made only—

''(i) if the President has notified the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives in writing of the proposed guarantee; and

''(ii) after the 30-day period following the date on which notice under clause (i) is provided.

''(B) WAIVERS AUTHORIZED.—The requirements of subparagraph (A) may be waived—

''(i) during a period of national emergency declared by Congress or the President; or

''(ii) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology item shortfall that would severely impair national defense capability.

''(2) OTHER LIMITATIONS.—The authority conferred by this section shall not be used primarily to prevent the financial insolvency or bankruptcy of any person, unless—

''(A) the President certifies that the insolvency or bankruptcy would have a direct and substantially adverse effect upon national defense production; and

''(B) a copy of the certification under subparagraph (A), together with a detailed justification thereof, is transmitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 10 days prior to the exercise of that authority for such use.

**''SEC. 302. LOANS TO PRIVATE BUSINESS ENTERPRISES.**

''(a) LOAN AUTHORITY.—To reduce current or projected shortfalls of industrial resources, critical technology items, or materials essential for the national defense, the President may make provision for loans to private business enterprises (including nonprofit research corporations and providers of critical infrastructure) for the creation, maintenance, expansion, protection, or restoration of capacity, the development of technological processes, or the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals.

''(b) CONDITIONS OF LOANS.—Loans may be made under this section on such terms and conditions as the President deems necessary, except that—

''(1) financial assistance may be extended only to the extent that it is not otherwise available from private sources on reasonable terms; and

''(2) during periods of national emergency declared by the Congress or the President, no such loan may be made unless the President determines that—

''(A) the loan is for an activity that supports the production or supply of an industrial resource, critical technology item, or material that is essential to the national defense;

''(B) without the loan, United States industry cannot reasonably be expected to provide the needed capacity, technological processes, or materials in a timely manner;

''(C) the loan is the most cost-effective, expedient, and practical alternative method for meeting the need;

''(D) the prospective earning power of the loan applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan in accordance with the terms of the loan, as determined by the President; and

''(E) the loan bears interest at a rate determined by the Secretary of the Treasury to be reasonable, taking into account the then-current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

''(c) LIMITATIONS ON LOANS.—Loans under this section may be—

''(1) made or guaranteed under the authority of this section only to the extent that an appropriations Act—

''(A) provides, in advance, budget authority for the cost of such guarantees, as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a); and

''(B) establishes a limitation on the total loan principal that may be guaranteed; and

''(2) made without regard to the limitations of existing law, other than section 1341 of title 31, United States Code.

''(d) AGGREGATE LOAN AMOUNTS.—

''(1) IN GENERAL.—If the making of any loan under this section to correct a shortfall would cause the aggregate outstanding amount of all obligations of the Federal Government under this title relating to such shortfall to exceed $50,000,000, such loan may be made only—

''(A) if the President has notified the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, in writing, of the proposed loan; and

''(B) after the 30-day period following the date on which notice under subparagraph (A) is provided.

''(2) WAIVERS AUTHORIZED.—The requirements of paragraph (1) may be waived—

''(A) during a period of national emergency declared by the Congress or the President; and

''(B) upon a determination by the President, on a nondelegable basis, that a specific loan is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.

**''SEC. 303. OTHER PRESIDENTIAL ACTION AUTHORIZED.**

''(a) IN GENERAL.—

''(1) IN GENERAL.—To create, maintain, protect, expand, or restore domestic industrial base capabilities essential for the national defense, the President may make provision—

''(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale;

''(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials;

''(C) for the development of production capabilities; and

''(D) for the increased use of emerging technologies in security program applications and the rapid transition of emerging technologies—

''(i) from Government-sponsored research and development to commercial applications; and

''(ii) from commercial research and development to national defense applications.

''(2) TREATMENT OF CERTAIN AGRICULTURAL COMMODITIES.—A purchase for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced, except to the extent that such domestically produced supply may be purchased for resale for industrial use or stockpiling.

''(3) TERMS OF SALES.—No commodity purchased under this subsection shall be sold at less than—

''(A) the established ceiling price for such commodity, except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower; or

''(B) if no ceiling price has been established, the higher of—

''(i) the current domestic market price for such commodity; or

''(ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation, as provided in section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427).

''(4) DELIVERY DATES.—No purchase or commitment to purchase any imported agricultural commodity shall specify a delivery date which is more than 1 year after the date of termination of this section.

''(5) PRESIDENTIAL DETERMINATIONS.—Except as provided in paragraph (7), the President may not execute a contract under this subsection unless the President determines that—

''(A) the industrial resource, material, or critical technology item is essential to the national defense; and

''(B) without Presidential action under this section, United States industry cannot reasonably be expected to provide the capability for the needed industrial resource, material, or critical technology item in a timely manner.

''(6) NOTIFICATION TO CONGRESS OF SHORTFALL.—

''(A) IN GENERAL.—Except as provided in paragraph (7), the President shall provide written notice to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of a domestic industrial base shortfall prior to taking action under this subsection to remedy the shortfall. The notice shall include the determinations made by the President under paragraph (5).

''(B) AGGREGATE AMOUNTS.—If the taking of any action under this subsection to correct a domestic industrial base shortfall would cause the aggregate outstanding amount of all such actions for such shortfall to exceed $50,000,000, the action or actions may be taken only after the 30-day period following the date on which the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives have been notified in writing of the proposed action.

''(7) WAIVERS AUTHORIZED.—The requirements of paragraphs (1) through (6) may be waived—

''(A) during a period of national emergency declared by the Congress or the President; or

''(B) upon a determination by the President, on a nondelegable basis, that action is necessary to avert an industrial resource or critical technology item shortfall that would severely impair national defense capability.

''(b) EXEMPTION FOR CERTAIN LIMITATIONS.—Subject to the limitations in subsection (a), purchases and commitments to purchase and sales under subsection (a) may be made without regard to the limitations of existing law (other than section 1341 of title 31, United States Code), for such quantities, and on such terms and conditions, including

advance payments, and for such periods, but not extending beyond a date that is not more than 10 years from the date on which such purchase, purchase commitment, or sale was initially made, as the President deems necessary, except that purchases or commitments to purchase involving higher than established ceiling prices (or if no such established ceiling prices exist, currently prevailing market prices) or anticipated loss on resale shall not be made, unless it is determined that supply of the materials could not be effectively increased at lower prices or on terms more favorable to the Government, or that such purchases are necessary to assure the availability to the United States of overseas supplies.

''(c) PRESIDENTIAL FINDINGS.—

''(1) IN GENERAL.—The President may take the actions described in paragraph (2), if the President finds that—

''(A) under generally fair and equitable ceiling prices, for any raw or nonprocessed material, there will result a decrease in supplies from high-cost sources of such material, and that the continuation of such supplies is necessary to carry out the objectives of this title; or

''(B) an increase in cost of transportation is temporary in character and threatens to impair maximum production or supply in any area at stable prices of any materials.

''(2) SUBSIDY PAYMENTS AUTHORIZED.—Upon a finding under paragraph (1), the President may make provision for subsidy payments on any such domestically produced material, other than an agricultural commodity, in such amounts and in such manner (including purchases of such material and its resale at a loss), and on such terms and conditions, as the President determines to be necessary to ensure that supplies from such high-cost sources are continued, or that maximum production or supply in such area at stable prices of such materials is maintained, as the case may be.

''(d) INCIDENTAL AUTHORITY.—The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined any materials procured under this section.

''(e) INSTALLATION OF EQUIPMENT IN INDUSTRIAL FACILITIES.—

''(1) INSTALLATION AUTHORIZED.—If the President determines that such action will aid the national defense, the President is authorized—

''(A) to procure and install additional equipment, facilities, processes or improvements to plants, factories, and other industrial facilities owned by the Federal Government;

''(B) to procure and install equipment owned by the Federal Government in plants, factories, and other industrial facilities owned by private persons;

''(C) to provide for the modification or expansion of privately owned facilities, including the modification or improvement of production processes, when taking actions under section 301, 302, or this section; and

''(D) to sell or otherwise transfer equipment owned by the Federal Government and installed under this subsection to the owners of such plants, factories, or other industrial facilities.

''(2) INDEMNIFICATION.—The owner of any plant, factory, or other industrial facility that receives equipment owned by the Federal Government under this section shall agree—

''(A) to waive any claim against the United States under section 107 or 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607 and 9613); and

''(B) to indemnify the United States against any claim described in paragraph (1) made by a third party that arises out of the presence or use of equipment owned by the Federal Government.

''(f) EXCESS METALS, MINERALS, AND MATERIALS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law to the contrary, metals, minerals, and materials acquired pursuant to this section which, in the judgment of the President, are excess to the needs of programs under this Act, shall be transferred to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), when the President deems such action to be in the public interest.

''(2) TRANSFERS AT NO CHARGE.—Transfers made pursuant to this subsection shall be made without charge against or reimbursement from funds appropriated for the purposes of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), except that costs incident to such transfer, other than acquisition costs, shall be paid or reimbursed from such funds.

''(g) SUBSTITUTES.—When, in the judgement of the President, it will aid the national defense, the President may make provision for the development of substitutes for strategic and critical materials, critical components, critical technology items, and other industrial resources.

**''SEC. 304. DEFENSE PRODUCTION ACT FUND.**

''(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the 'Defense Production Act Fund' (in this section referred to as the 'Fund').

''(b) MONEYS IN FUND.—There shall be credited to the Fund—

''(1) all moneys appropriated for the Fund, as authorized by section 711; and

''(2) all moneys received by the Fund on transactions entered into pursuant to section 303.

''(c) USE OF FUND.—The Fund shall be available to carry out the provisions and purposes of this title, subject to the limitations set forth in this Act and in appropriations Acts.

''(d) DURATION OF FUND.—Moneys in the Fund shall remain available until expended.

''(e) FUND BALANCE.—The Fund balance at the close of each fiscal year shall not exceed $750,000,000, excluding any moneys appropriated to the Fund during that fiscal year or obligated funds. If, at the close of any fiscal year, the Fund balance exceeds $750,000,000, the amount in excess of $750,000,000 shall be paid into the general fund of the Treasury.

''(f) FUND MANAGER.—The President shall designate a Fund manager. The duties of the Fund manager shall include—

''(1) determining the liability of the Fund in accordance with subsection (g);

''(2) ensuring the visibility and accountability of transactions engaged in through the Fund; and

''(3) reporting to the Congress each year regarding activities of the Fund during the previous fiscal year.

''(g) LIABILITIES AGAINST FUND.—When any agreement entered into pursuant to this title after December 31, 1991, imposes any contingent liability upon the United States, such liability shall be considered an obligation against the Fund.''.

**SEC. 8. DEFINITIONS.**

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended—

(1) in paragraph (1), by striking ''military equipment identified by the Secretary of Defense'' and inserting ''equipment identified by the President'';

(2) by striking paragraphs (2), (4), (9), and (18);

(3) by redesignating paragraph (3) as paragraph (2);

(4) by inserting after paragraph (2), as so redesignated, the following:

''(3) CRITICAL TECHNOLOGY.—The term 'critical technology' includes any technology designated by the President to be essential to the national defense.'';

(5) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively;

(6) in paragraph (6), as so redesignated—

(A) in the paragraph heading, by striking ''DEFENSE'';

(B) by striking ''domestic defense'' and inserting ''domestic''; and

(C) by striking ''graduated mobilization,'';

(7) by redesignating paragraphs (10) and (11) as paragraphs (8) and (9), respectively;

(8) by inserting after paragraph (9), as so redesignated, the following:

''(10) GUARANTEEING AGENCY.—The term 'guaranteeing agency' means a department or agency of the United States engaged in procurement for the national defense.

''(11) HOMELAND SECURITY.—The term 'homeland security' includes efforts—

''(A) to prevent terrorist attacks within the United States;

''(B) to reduce the vulnerability of the United States to terrorism;

''(C) to minimize damage from a terrorist attack in the United States; and

''(D) to recover from a terrorist attack in the United States.'';

(9) in paragraph (12), by striking ''capacity'' and inserting ''base'';

(10) in paragraph (14), by striking ''military assistance to any foreign nation'' and inserting ''military or critical infrastructure assistance to any foreign nation, homeland security''; and

(11) in paragraph (16)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(C) the movement of individuals and property by all modes of civil transportation; or

''(D) other national defense programs and activities.''.

**SEC. 9. VOLUNTARY AGREEMENTS AND PLANS OF ACTION FOR NATIONAL DEFENSE.**

Section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking ''defense of the United States'' and all that follows through the period and inserting ''national defense.''; and

(B) by adding at the end the following:

''(3) Upon a determination by the President, on a nondelegable basis, that a specific voluntary agreement or plan of action is necessary to meet national defense requirements resulting from an event that degrades or destroys critical infrastructure—

''(A) an individual that has been delegated authority under paragraph (1) with respect to such agreement or plan shall not be required to consult with the Attorney General or the Federal Trade Commission under paragraph (2)(B); and

''(B) the President shall publish a rule in accordance with subsection (e)(2)(B) and publish notice in accordance with subsection (e)(3)(B) with respect to such agreement or plan as soon as is practicable under the circumstances.'';

(2) in subsection (f)(2)—

(A) by striking ''two years'' each place that term appears and inserting ''5 years''; and

(B) by striking ''two-year'' and inserting ''5-year''; and

(3) by striking subsection (n) and inserting the following:

''(n) EXEMPTION FROM ADVISORY COMMITTEE ACT PROVISIONS.—Notwithstanding any other provision of law, the Federal Advisory Committee Act (5 U.S.C. App.) and any other provision of Federal law relating to advisory committees shall not apply to—

''(1) the consultations referred to in subsection (c)(1); or

''(2) any activity conducted under a voluntary agreement or plan of action approved pursuant to this section that complies with the requirements of this section.''.

**SEC. 10. EMPLOYMENT OF PERSONNEL; APPOINTMENT POLICIES; NUCLEUS EXECUTIVE RESERVE; USE OF CONFIDENTIAL INFORMATION BY EMPLOYEES; PRINTING AND DISTRIBUTION OF REPORTS.**

Section 710 of the Defense Production Act of 1950 (50 U.S.C. App. 2160) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking clause (iii);

(B) by striking paragraph (4);

(C) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively; and

(D) in paragraph (6), as so redesignated, by striking ''At least'' and all that follows through ''survey'' and inserting ''The Director of the Office of Personnel Management shall carry out a biennial survey of'';

(2) in subsection (c), by striking the third sentence;

(3) in subsection (d), by striking ''needed;'' and all that follows through the period and inserting ''needed.''; and

(4) in subsection (e)—

(A) in the first sentence, by striking ''emergency'' and inserting ''national defense emergency, as determined by the President''; and

(B) by striking the third sentence.

**SEC. 11. DEFENSE PRODUCTION ACT COMMITTEE.**

Section 722 of the Defense Production Act of 1950 (50 U.S.C. App. 2171) is amended to read as follows:

**''SEC. 722. DEFENSE PRODUCTION ACT COMMITTEE.**

''(a) COMMITTEE ESTABLISHED.—There is established the Defense Production Act Committee (in this section referred to as the 'Committee'), which shall advise the President on the effective use of the authority under this Act by the departments, agencies, and independent establishments of the Federal Government to which the President has delegated authority under this Act.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The members of the Committee shall be—

''(A) the head of each Federal agency to which the President has delegated authority under this Act; and

''(B) the Chairperson of the Council of Economic Advisors.

''(2) CHAIRPERSON.—The President shall designate 1 member of the Committee as the Chairperson of the Committee.

''(c) EXECUTIVE DIRECTOR.—

''(1) IN GENERAL.—The President shall appoint an Executive Director of the Defense Production Act Committee (in this section referred to as the 'Executive Director'), who shall—

''(A) be responsible to the Chairperson of the Committee; and

''(B) carry out such activities relating to the Committee as the Chairperson may determine.

''(2) APPOINTMENT.—The appointment by the President shall not be subject to the advice and consent of the Senate.

''(3) COMPENSATION.—For pay periods beginning on or after the date on which each Chairperson is appointed, funds for the pay of the Executive Director shall be paid from appropriations to the salaries and expenses account of the department or agency of the Chairperson of the Committee. The Executive Director shall be compensated at a rate of pay equivalent to that of a Deputy Assistant Secretary (or a comparable position) of the Federal agency of the Chairperson of the Committee.

''(d) REPORT.—Not later than the end of the first quarter of each calendar year, the Committee shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report signed by each member of the Committee that contains—

''(1) a review of the authority under this Act of each department, agency, or independent establishment of the Federal Government to which the President has delegated authority under this Act;

''(2) recommendations for the effective use of the authority described in paragraph (1) in a manner consistent with the statement of policy under section 2(b);

''(3) recommendations for legislation, regulations, executive orders, or other action by the Federal Government necessary to improve the use of the authority described in paragraph (1); and

''(4) recommendations for improving information sharing between departments, agencies, and independent establishments of the Federal Government relating to all aspects of the authority described in paragraph (1).

''(e) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.''.

**SEC. 12. ANNUAL REPORT ON IMPACT OF OFFSETS.**

(a) ANNUAL REPORT.—Title VII of the Defense Production Act of 1950 (50 U.S.C. App. 2151 et seq.) is amended by adding at the end the following:

**''SEC. 723. ANNUAL REPORT ON IMPACT OF OFFSETS.**

''(a) REPORT REQUIRED.—

''(1) IN GENERAL.—The President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, a detailed annual report on the impact of offsets on the defense preparedness, industrial competitiveness, employment, and trade of the United States.

''(2) DUTIES OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce (hereafter in this subsection referred to as the 'Secretary') shall—

''(A) prepare the report required by paragraph (1);

''(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in connection with the preparation of such report; and

''(C) function as the President's Executive Agent for carrying out this section.

''(b) INTERAGENCY STUDIES AND RELATED DATA.—

''(1) PURPOSE OF REPORT.—Each report required under subsection (a) shall identify the cumulative effects of offset agreements on—

''(A) the full range of domestic defense productive capability (with special attention paid to the firms serving as lower-tier subcontractors or suppliers); and

''(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

''(2) USE OF DATA.—Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary to facilitate the execution of the Secretary's responsibilities with respect to trade offset and countertrade policy development.

''(c) NOTICE OF OFFSET AGREEMENTS.—

''(1) IN GENERAL.—If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding $5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

''(2) REGULATIONS.—The information to be furnished under paragraph (1) shall be prescribed in regulations promulgated by the Secretary. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information.

''(d) CONTENTS OF REPORT.—

''(1) IN GENERAL.—Each report under subsection (a) shall include—

''(A) a net assessment of the elements of the industrial base and technology base covered by the report;

''(B) recommendations for appropriate remedial action under the authority of this Act, or other law or regulations;

''(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (b);

''(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (c); and

''(E) a summary and analysis of any bilateral and multilateral negotiations relating to the use of offsets completed during the reporting period.

''(2) ALTERNATIVE FINDINGS OR RECOMMENDATIONS.—Each report required under this section shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary.

''(e) UTILIZATION OF ANNUAL REPORT IN NEGOTIATIONS.—The findings and recommendations of the reports required by subsection (a), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFENSE PRODUCTION ACT AMENDMENTS OF 1992.—Section 123(c)(1)(C) of the Defense Production Act Amendments of 1992 (50 U.S.C. App. 2099 note) is amended by striking ''section 309(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2099(a))'' and inserting ''section 723(a) of the Defense Production Act of 1950''.

(2) AMERICAN HOMEOWNERSHIP AND ECONOMIC OPPORTUNITY ACT OF 2000.—Section 1102(2) of the American Homeownership and Economic Opportunity Act of 2000 (31 U.S.C. 1113 note) is amended by striking ''309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099)'' and inserting ''723 of the Defense Production Act of 1950''.

(3) DEFENSE PRODUCTION ACT AMENDMENTS OF 2003.—Section 7(a) of the Defense Production Act Amendments of 2003 (50 U.S.C. App. 2099 note) is amended by striking ''section 309(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2099(a))'' and inserting ''section 723(a) of the Defense Production Act of 1950''.

## NATIONAL AEROSPACE DAY

Mr. CASEY. Mr. President, I ask unanimous consent that the Commerce

Committee be discharged from further consideration, and the Senate now proceed to S. Res. 242.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 242) ''Supporting the Goals and Ideals of National Aerospace Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 242) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 242

Whereas the missions to the moon by the National Aeronautics and Space Administration are recognized around the globe as 1 of the most outstanding achievements of humankind;

Whereas the United States is a leader in the International Space Station, the most advanced human habitation and scientific laboratory ever placed in space;

Whereas the first aircraft flight occurred in the United States, and the United States operates the largest and safest aviation system in the world;

Whereas the United States aerospace industry is a powerful, reliable source of employment, innovation, and export income, directly employing 831,000 people and supporting more than 2,000,000 jobs in related fields;

Whereas space exploration is a source of inspiration that captures the interest of young people;

Whereas aerospace education is an important component of science, technology, engineering, and mathematics education and helps to develop the science and technology workforce in the United States;

Whereas aerospace innovation has led to the development of advanced meteorological forecasting, which has saved lives around the world;

Whereas aerospace innovation has led to the development of the Global Positioning System, which has strengthened national security and increased economic productivity;

Whereas the aerospace industry assists and protects members of the Armed Forces with military communications, unmanned aerial systems, situational awareness, and satellite-guided ordinances; and

Whereas September 16, 2009, is an appropriate date to observe ''National Aerospace Day'': Now, therefore, be it

*Resolved,* That the Senate—

(1) supports the goals and ideals of ''National Aerospace Day''; and

(2) recognizes the contributions of the aerospace industry to the history, economy, security, and educational system of the United States.

## NATIONAL HISPANIC SERVING INSTITUTIONS WEEK

Mr. CASEY. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 269 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 269) designating the week beginning September 20, 2009, as ''National Hispanic Serving Institutions Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no interviewing action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 269) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES 269

Whereas Hispanic Serving Institutions play an important role in educating Hispanic students and helping them contribute to the economic vitality of this Nation;

Whereas there are approximately 268 Hispanic Serving Institutions currently in operation in the United States;

Whereas Hispanic Serving Institutions are actively involved in stabilizing and improving their local communities;

Whereas celebrating the vast contributions of Hispanic Serving Institutions adds to the strength and culture of our Nation; and

Whereas the achievements and goals of Hispanic Serving Institutions are deserving of national recognition: Now, therefore, be it

*Resolved,* That the Senate—

(1) recognizes the achievement and goals of Hispanic Serving Institutions across this Nation;

(2) designates the week beginning September 20, 2009, as ''National Hispanic Serving Institutions Week''; and

(3) calls on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for Hispanic Serving Institutions.

## CONGRATULATING THE HIGH POINT FURNITURE MARKET

Mr. CASEY. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 270 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 270) Congratulating the High Point Furniture Market on the occasion of its 100th anniversary as a leader in home furnishing.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 270) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 270

Whereas, since the first home furnishings market was held in High Point, North Carolina in the spring of 1909, the High Point Furniture Market has gained a worldwide reputation as the premier place to experience the newest ideas in home furnishings;

Whereas, as the home furnishings market that has more new product premieres than any other, the High Point Furniture Market has become known around the world as the launching pad for the home furnishings trends that will shape the culture and homes of the people of the United States for years to come;

Whereas, every spring and fall for 100 years, as many as 85,000 people have traveled to the small city of High Point from all parts of the United States and more than 110 countries to participate in one of the largest and most influential commercial events in the world;

Whereas the High Point Furniture Market is the intellectual and creative nerve center of the home furnishings industry in the United States, and the centerpiece of the furniture industry cluster in the region;

Whereas a study conducted by High Point University in 2007 estimated the economic impact of the furniture industry cluster in the region at $8,250,000,000 annually and found that the furniture industry cluster was responsible for more than 69,000 jobs in the region;

Whereas an economic impact study carried out at the University of North Carolina at Greensboro found that the High Point Furniture Market contributes approximately $1,200,000,000 each year to the economies of the City of High Point, the Piedmont Triad, and the State of North Carolina;

Whereas the High Point Furniture Market is responsible for approximately 13,516 jobs, just under 20 percent of the furniture-related jobs in the Piedmont Triad;

Whereas the High Point Furniture Market is a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986;

Whereas the Department of Commerce has awarded the High Point Furniture Market ''International Buyer Program'' status for 3 years;

Whereas, as a participant in the International Buyer Program, the High Point Furniture Market represents the United States and the State of North Carolina to the world, and positions the home furnishings industry in the United States front and center on the world stage; and

Whereas, as the first century of the High Point Furniture Market comes to a close in fall of 2009, the High Point Furniture Market continues to expand and improve, securing its position as the most important domestic and international event in the home furnishings industry: Now, therefore, be it

*Resolved,* That the Senate—

(1) congratulates the High Point Market on the occasion of its 100th anniversary as a leader in home furnishing;

(2) honors and recognizes the contributions of the High Point Furniture Market during the last 100 years; and

(3) encourages the High Point Furniture Market to continue as the world-wide premier event of the home furnishings industry.

## SUPPORT FOR IDEALS AND GOALS OF CITIZENSHIP DAY 2009

Mr. CASEY. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 271 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 271) expressing support for the ideals and goals of Citizenship Day 2009.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statement related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 271) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 271

Whereas Constitution Day and Citizenship Day are observed each year on September 17;

Whereas, the Joint Resolution of February 29, 1952 (66 Stat. 9, chapter 49), designated September 17 of each year as ''Citizenship Day'', in ''commemoration of the formation and signing, on September 17, 1787, of the Constitution of the United States and in recognition of all who, by coming of age or by naturalization have attained the status of citizenship'';

Whereas section 111(c) of Division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3344) amended section 106 of title 36, United States Code, to designate September 17 as ''Constitution Day and Citizenship Day'';

Whereas Citizenship Day is a special day for all United States citizens, including those who were born in the United States and those who chose to become citizens;

Whereas Citizenship Day is a day to take pride in being a United States citizen and to appreciate the rights, freedoms, and responsibilities inherent in United States citizenship;

Whereas, on Citizenship Day, naturalization ceremonies will be held at historic landmarks throughout the United States;

Whereas United States citizens are viewed with respect, honor, and dignity in the United States and throughout the world; and

Whereas, on September 17 of each year, ''The civil and educational authorities of States, counties, cities, and towns are urged to make plans for the proper observance of Constitution Day and Citizenship Day and for the complete instruction of citizens in their responsibilities and opportunities as citizens of the United States and of the State and locality in which they reside'', section 106(d) of title 36, United States Code: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the ideals and goals of Citizenship Day 2009;

(2) recognizes that citizens from all backgrounds have made countless contributions to the strength of the United States, making the United States a symbol of success, promise, and hope;

(3) recognizes the initiative taken by immigrants to learn about the responsibilities and significance of United States citizenship and wishes immigrants well in their future efforts to contribute to the United States; and

(4) calls on the people of the United States to observe Citizenship Day with appropriate ceremonies, activities, and programs in support of all United States citizens.

## TRANSPORTATION APPROPRIATIONS

Mr. CASEY. As a point of clarification with respect to the agreement governing consideration of H.R. 3288, if a new substitute amendment has to be offered, no amendments would be in order to that amendment.

The PRESIDING OFFICER. The record will so reflect.

Mr. CASEY. I ask unanimous consent that the previous order regarding H.R. 3288 be modified to provide that the Senate resume consideration of the bill at 2 p.m. Thursday, September 17, and then the remaining provisions of the order remain in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR THURSDAY, SEPTEMBER 17, 2009

Mr. CASEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, September 17; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders reserved for their use later in the day, and the Senate then proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate proceed to the immediate consideration of Calendar No. 98, H.R. 2996, the Interior appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. CASEY. Tomorrow at 2 p.m., the Senate will suspend consideration of the Interior appropriations bill in order to complete action on the Transportation-HUD appropriations bill. At 2 p.m., the Senate will proceed to a series of up to six rollcall votes, including passage of the Transportation-HUD appropriations bill.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CASEY. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:05 p.m., adjourned until Thursday, September 17, 2009, at 9:30 a.m.

## CONFIRMATIONS

Executive nominations confirmed by the Senate, Wednesday, September 16, 2009:

DEPARTMENT OF DEFENSE

JOHN M. MCHUGH, OF NEW YORK, TO BE SECRETARY OF THE ARMY.

JOSEPH W. WESTPHAL, OF NEW YORK, TO BE UNDER SECRETARY OF THE ARMY.

JUAN M. GARCIA III, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.